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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10577

AMENDING THE CIVIL SERVICE RULES AND AUTHORIZING A NEW APPOINTMENT SYSTEM FOR THE COMPETITIVE SERVICE

By virtue of the authority vested in me by the Constitution, by section 1753 of the Revised Statutes (5 U. S. C. 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—CIVIL SERVICE RULES

SECTION 101. The Civil Service Rules are hereby amended to read as follows:

RULE I—COVERAGE AND DEFINITIONS

SEC. 1.1 *Positions and employees affected by these Rules.* These Rules shall apply to all positions in the competitive service and to all incumbents of such positions. Except as expressly provided in the Rule concerned, these Rules shall not apply to positions and employees in the excepted service.

SEC. 1.2 *Extent of the competitive service.* The competitive service shall include: (a) All civilian positions in the executive branch of the Government unless specifically excepted therefrom by or pursuant to statute or by the Civil Service Commission (hereafter referred to in these Rules as the Commission) under section 6.1 of Rule VI; and (b) all positions in the legislative and judicial branches of the Federal Government and in the Government of the District of Columbia which are specifically made subject to the civil-service laws by statute. The Commission is authorized and directed to determine finally whether a position is in the competitive service.

SEC. 1.3 *Definitions.* As used in these Rules:

(a) "Competitive service" shall have the same meaning as the words "classified service", or "classified (competitive) service", or "classified civil service" as defined in existing statutes and executive orders.

(b) "Competitive position" shall mean a position in the competitive service.

(c) "Competitive status" shall mean basic eligibility to be noncompetitively selected to fill a vacancy in a competitive position. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

(d) An employee shall be considered as being in the competitive service when he has a competitive status and occupies a competitive position unless he is serving under a temporary appointment: *Provided*, That an employee who is in the competitive service at the time his position is first listed under Schedule A, B, or C shall be considered as continuing in the competitive service as long as he continues to occupy such position.

(e) "Tenure" shall mean the period of time an employee may reasonably expect to serve under his current appointment. Tenure shall be granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is to a competitive position or an excepted position.

SEC. 1.4 *Extent of the excepted service.* (a) The excepted service shall include all civilian positions in the executive branch of the Government which are specifically excepted from the requirements of the Civil Service Act or from the competitive service by or pursuant to statute or by the Commission under section 6.1 of Rule VI.

(b) "Excepted service" shall have the same meaning as the words "unclassified service", or "unclassified civil service", or "positions outside the competitive civil service" as used in existing statutes and executive orders.

(c) "Excepted position" shall have the same meaning as "unclassified position", or "position excepted by law", or "position excepted by executive order", or "position excepted by Civil Service Rule", or "position outside the competitive serv-

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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ice" as used in existing statutes and executive orders.

RULE II—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

SEC. 2.1 *Competitive examinations and eligible registers.* (a) The Commission shall be responsible for open competitive examinations for admission to the competitive service which will fairly test the relative capacity and fitness of the persons examined for the position to be filled. The Commission is authorized to establish standards with respect to citizenship, age, education, training and experience, suitability, and physical and mental fitness, and for residence or other requirements which applicants must meet to be admitted to or rated in examinations.

(b) In addition to the names of persons who qualify in competitive examinations, the names of persons who have lost eligibility on a career or career-conditional register because of service in the armed forces, and the names of persons who lost opportunity for certification or who have served under career or career-conditional appointment when the Commission determines that they should be given certification, may also be entered at such places on appropriate registers and under such conditions as the Commission may prescribe.

SEC. 2.2 *Appointments.* (a) The Commission shall establish and administer a career-conditional appointment system for positions subject to competitive examination which will permit adjustment of the career service to necessary fluctuations in Federal employment, and provide an equitable and orderly system for stabilizing the Federal work force. A competitive status shall be acquired by a career-conditional appointee upon satisfactory completion of a probationary period, but the appointee shall have career-conditional tenure for a period of service to be prescribed by regulation of the Commission.

When an employee has completed the required period of service his appointment shall be converted to a career appointment without time limitation: *Provided*, That his career-conditional appointment shall not be converted to a career appointment if the limitation on the number of permanent employees in the Federal civil service established under subsection (b) of this section would be exceeded thereby. Persons selected from competitive civil service registers for other than temporary appointment shall be given career-conditional appointments: *Provided*, That career appointments shall be given to the following classes of eligibles: (1) Persons whose appointments are required by statute to be made on a permanent basis; (2) employees serving under career appointments at the time of selection from such registers; (3) former employees who have eligibility for career appointments upon reinstatement; and (4) to the extent permitted by law, persons appointed to positions in the field service of the Post Office Department for which salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented.

(b) Under the career-conditional appointment system there shall be a limit on the number of permanent employees in the Federal civil service which shall be the ceiling established by section 1310 of the Supplemental Appropriation Act, 1952 (65 Stat. 757), as amended. In the event section 1310, supra, is repealed, the Commission is authorized to fix such limitation on the number of permanent employees in the Federal civil service as it finds necessary to meet the needs of the service.

(c) The Commission may determine the types, duration, and conditions of indefinite and temporary appointments, and may prescribe the method for replacing persons holding such appointments.

SEC. 2.3 *Apportionment.* Subject to such modifications as the Commission finds to be necessary in the interest of good administration, appointments to positions in agencies' headquarters offices which are located within the metropolitan area of Washington, D. C., shall be made so as to maintain the apportionment of appointments among the several States, Territories, and the District of Columbia upon the basis of population.

SEC. 2.4 *Probationary period.* Persons selected from registers of eligibles for career or career-conditional appointment shall be required to serve a probationary period under such terms and conditions as the Commission may prescribe.

RULE III—NONCOMPETITIVE ACQUISITION OF STATUS

SEC. 3.1 *Classes of persons who may noncompetitively acquire status.* (a) Upon recommendation by the agency concerned, and subject to such noncompetitive examination, time limits, or other requirements as the Commission may prescribe, the following classes of persons may acquire a competitive status without competitive examination:

(1) A person holding a permanent position when it is placed in the competitive service by statute or executive order or is otherwise made subject to competitive examination.

(2) A disabled veteran who, in a manner satisfactory to the Commission, has completed a course of training in the executive branch of the Government prescribed by the Administrator of Veterans' Affairs in accordance with the act of March 24, 1943, 57 Stat. 43.

(3) An employee who has served at least two years in the immediate office of the President or on the White House Staff and who is transferred to a competitive position at the request of an agency.

(4) An employee who was serving when his name was reached for certification on a civil-service register appropriate for the position in which he was serving: *Provided*, That the recommendation for competitive status is made prior to expiration of the register on which his name appears or is made during a period of continuous service since his name was reached: *Provided further*, That the register was being used for appointments conferring competitive status at the time his name was reached.

SEC. 3.2 *Appointments without competitive examination in rare cases.* Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, the Commission may authorize an appointment in the competitive service without competitive examination whenever it finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil-service administration, the position cannot be filled through open competitive examination. Any person heretofore or hereafter appointed under this section shall acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as the Commission may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in the Commission's annual reports.

SEC. 3.3 *Conversion of appointments.* Any person who acquires a competitive status under this Rule shall have his appointment converted to career-conditional appointment unless he meets the service requirement for career appointment prescribed under section 2.2 (a) of Rule II.

RULE IV—PROHIBITED PRACTICES

SEC. 4.1 *Prohibition against political activity.* No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

SEC. 4.2 *Prohibition against racial, political or religious discrimination.* No person employed in the executive branch of the Federal Government who has authority to take or recommend any personnel action with respect to any person who is an employee in the competitive service or any eligible or applicant for a position in the competitive service shall make any inquiry concerning the race, political affiliation or religious beliefs of any such employee, eligible, or applicant. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his race, political affiliation or religious beliefs, except as may be authorized or required by law.

SEC. 4.3 *Prohibition against securing withdrawal from competition.* No person shall influence another person to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. The Commission is authorized to take such disciplinary action as it deems appropriate whenever it finds that any person has violated this section.

RULE V—REGULATIONS, INVESTIGATION, AND ENFORCEMENT

SEC. 5.1 *Regulations.* (a) The Commission is authorized and directed to promulgate and enforce such regulations as may be necessary to carry out the provisions of the Civil Service Act and Rules, the Veterans' Preference Act, and all other applicable statutes or executive orders imposing responsibilities on the Commission.

(b) The Commission is authorized, whenever there shall be practical difficulties and unnecessary hardships in complying with the strict letter of its regulations, to grant a variation from the strict letter of the regulations if such variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted: *Provided*, That whenever such a variation is granted the Commission shall record in the minutes of its proceedings (1) the particular practical difficulty or hardship involved, (2) what is permitted in lieu of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to the variation: *Provided further*, That similar variations shall be granted whenever similar conditions exist. All minutes approved under authority of

this section shall be published in the Commission's annual reports.

SEC. 5.2 *Authority of the Commission to make investigations.* The Commission may make appropriate investigations to secure enforcement of the Civil Service Act, Rules, and Regulations, including investigation of the qualifications and suitability of applicants for positions in the competitive service. It may require appointments to be made subject to investigation to enable the Commission to determine, after appointment, that the requirements of law or the Civil Service Rules and Regulations have been met. Whenever the Commission finds that an employee serving under such an appointment is disqualified for Federal employment, it may instruct the agency to remove him, or to suspend him pending an appeal from the Commission's finding: *Provided*, That when an agency removes or suspends an employee pursuant to the Commission's instructions, and the Commission, on the basis of new evidence or on appeal, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Commission, restore the employee to duty.

SEC. 5.3 *Officers and employees to furnish testimony.* All officers and employees in the executive branch, and applicants or eligibles for positions therein, shall give to the Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. Whenever required by the Commission, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

SEC. 5.4 *Enforcement authority of the Commission.* (a) Whenever the Commission finds that any person has been appointed to or is holding a position in violation of the Civil Service Act, Rules or Regulations, or that any officer or employee in the executive branch has violated this order or any of the laws, rules or regulations administered by the Commission, it is authorized, after giving due notice and opportunity for explanation to the officer or employee and the agency concerned, to certify the facts to the proper appointing officer with specific instructions as to discipline or dismissal or other corrective action.

(b) Whenever the Commission finds that any officer or employee in the executive branch has failed to adhere to established policies, regulations, and standards relating to personnel management subject to the jurisdiction of the Commission, it shall instruct the agency head to take corrective action.

(c) Whenever, on the basis of an appeal by an employee, the Commission finds that its regulations prescribing procedures to be followed by agencies in connection with adverse actions for disciplinary reasons have not been followed, or that adverse action has been taken for political reasons except as may be required by law, or resulted from discrimination because of marital status, it shall instruct the agency to restore the employee to duty.

(d) Whenever the Commission issues specific instructions as to discipline or dismissal of an officer or employee, or to restore an officer or employee to duty, the appointing officer concerned shall comply with the Commission's instructions.

(e) If the appointing officer fails to carry out the instructions of the Commission issued under section 4 (a) of this Rule, the Commission shall certify the facts to the head of the agency concerned. If the head of the agency fails to carry out the instructions of the Commission within ten days after receipt thereof, the Commission shall certify the facts to the Comptroller General of the United States, and shall furnish a copy of such certification to the head of the agency concerned; and thereafter no payment shall be made of the salary or wages accruing to the employee concerned.

RULE VI—EXCEPTIONS FROM THE COMPETITIVE SERVICE

SEC. 6.1 *Authority to except positions from the competitive service.* (a) The Commission is authorized to except positions from the competitive service whenever it determines that appointments thereto through competitive examination are not practicable. Upon the recommendation of the agency concerned, it may also except positions which are of a confidential or policy-determining character. Such exceptions from the competitive service shall be effective upon publication thereof in the FEDERAL REGISTER. Positions excepted by the Commission shall be listed in Schedule A, B, or C as provided for in section 6.2 of this Rule, and shall also be listed in the Commission's annual report for the fiscal year in which the exceptions are made.

(b) The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

SEC. 6.2 *Schedules of excepted positions.* The Commission shall list positions that it excepts from the competitive service in Schedules A, B, and C, which schedules shall constitute parts of this Rule, as follows:

Schedule A. Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

Schedule B. Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by the Commission.

Schedule C. Positions of a confidential or policy-determining character shall be listed in Schedule C.

SEC. 6.3 *Method of filling excepted positions and status of incumbents.* (a) The head of an agency may fill excepted positions by the appointment of persons without civil service eligibility or competitive status and such persons shall not acquire competitive status by reason of such appointment: *Provided*, That the Commission, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this Rule, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary.

SEC. 6.4 *Removal of incumbents of excepted positions.* Except as may be required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A and C or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

SEC. 6.5 *Assignment of excepted employees.* No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of the Commission.

SEC. 6.6 *Revocation of exceptions.* The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A or B, and, with the concurrence of the agency concerned, may remove any position from or may revoke in whole or in part any provision of Schedule C. Such changes shall become effective upon publication thereof in the FEDERAL REGISTER.

SEC. 6.7 *Movement of persons between the civil-service system and other merit systems.* Whenever the Commission and any Federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil-service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

RULE VII—GENERAL PROVISIONS

SEC. 7.1 *Discretion in filling vacancies.* In his discretion, an appointing officer may fill any position in the competitive service either by competitive appointment from a civil-service register or by noncompetitive selection of a present or former Federal employee, in accordance with the Civil Service Regulations. He shall exercise his discretion in all personal actions solely on the basis of merit and fitness and without regard to political or religious affiliations, marital status, or race.

SEC. 7.2 *Personnel reports.* Each agency shall report to the Commission, in such manner and at such times as the Commission may prescribe, such personnel information as it may request relating to positions and officers and employ-

ees in the competitive service and in the excepted service, whether permanent or career, career-conditional, indefinite, temporary, emergency, or subject to contract.

SEC. 7.3 *Reemployment rights.* The Commission, whenever it determines it to be necessary, shall prescribe regulations governing the release of employees (both within the competitive service and the excepted service) by any agency in the executive branch of the Government for employment in any other agency, and governing the establishment, granting, and exercise of rights to reemployment in the agencies from which employees are released.

PART II—SPECIAL PROVISIONS FOR TRANSITION FROM INDEFINITE APPOINTMENT SYSTEM TO CAREER-CONDITIONAL APPOINTMENT SYSTEM

SEC. 201. (a) Under such conditions as the Civil Service Commission may prescribe, all employees serving under indefinite appointments in the competitive service on the effective date of this order who were appointed by selection in regular order from appropriate competitive civil-service registers established subsequent to February 4, 1946, shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service, and to career appointments if they have had three or more years of such service since they were appointed: *Provided*, That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further*, That employees serving in excepted positions who would meet the conditions for career-conditional or career appointments if they were serving in competitive positions shall be granted competitive status upon completion of a probationary period.

(b) The Commission may prescribe the conditions under which employees who are serving under indefinite appointments in the competitive service on the effective date of this order and who were not appointed by selection in regular order from competitive civil-service registers may be examined and have their names entered on existing competitive civil-service registers. When such employees are within reach for appointment from such registers they shall be eligible for career-conditional appointments if, since they were given indefinite appointments, they have had less than three years of creditable service, and for career appointments if they have had three or more years of such service.

(c) All employees in the competitive service who on the effective date of this order are serving under indefinite appointments made noncompetitively based upon prior service with a competitive status shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service, and to career appointments if they have had three or more years of such service under either permanent or indefinite appointment: *Provided*, That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further*, That any such employees in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented, shall have their appointments converted to career appointments if they are serving in positions in the authorized complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes).

(d) The Commission shall define "creditable service" and shall prescribe the conditions for completion of the period of creditable service required for career appointment.

(e) Except as provided in section 201 (c) hereof, this section shall not apply to employees serving under indefinite appointments in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented.

SEC. 202. (a) Notwithstanding the provisions of section 201 (a) of this order, and subject to such noncompetitive examination or other requirements as the Commission may prescribe, any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more may, upon recommendation of the agency concerned, noncompetitively acquire a competitive status subject to completion of a probationary period: *Provided*, That he is serving under an indefinite appointment, a temporary appointment pending establishment of a register, or a temporary appointment for job employment which has been continuous for more than one year: *Provided further*, That recommendation for acquisition of status under this section is made not later than December 31, 1957.

(b) Any employee who is recommended for noncompetitive acquisition of competitive status under section 202 (a) hereof and who satisfies the noncompetitive examination and other requirements of the Commission shall have the appointment under which he is serving converted to a career appointment if he has completed a probationary period or to a career-conditional appointment if he has not completed a probationary period. The career-conditional appointment of such an employee shall be converted to a career appointment upon completion of probation.

(c) An employee in the field service of the Post Office Department whose salary rate is fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented, may not be recommended for competitive status under section 202 (a) hereof unless he can be appointed to a vacancy in the authorized complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes). When such an employee is recommended for noncompetitive acquisition of competitive status and satisfies the noncompetitive examination and other requirements of the Commission, his appointment shall be converted to a career appointment subject to satisfactory completion of a probationary period.

SEC. 203. The career-conditional appointment of any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more and who is selected in regular order from a competitive civil-service register may, notwithstanding the provisions of section 2.2 (a) of Civil Service Rule II, be converted to a career appointment: *Provided*, That not later than December 31, 1957, the agency in which he is employed so recommends and certifies to the Commission that he has satisfactorily completed a one-year probationary period: *Provided further*, That any such employee who is not certified for career appointment under this section shall have his career-conditional appointment converted to a career appointment when he has completed the service requirements for such appointment prescribed under section 2.2 (a) of Civil Service Rule II.

SEC. 204. In order to effectuate the purposes of section 1310 of the Supplemental Appropriations Act, 1952 (65 Stat. 757), as amended, the Commission shall, after consultation with the agencies concerned, determine the division of allowable permanent appointments within and between the excepted service and the competitive service.

SEC. 205. The Commission shall issue such regulations and instructions as may be necessary to effectuate the purposes of this part.

PART III

SEC. 301. The following-described executive orders and parts of executive orders are hereby revoked:

Part II of Executive Order No. 9830 of February 24, 1947, amending the Civil Service Rules: *Provided*, That the positions listed in Schedules A, B, and C as provided for in Civil Service Rule VI of that order, as amended,

shall be considered as being listed in Schedules A, B, and C, respectively, as provided for in Civil Service Rule VI of this order, unless and until they are removed therefrom by the Commission.

Executive Orders No. 9973 of June 28, 1948, No. 10440 of March 31, 1953, and No. 10463 of June 25, 1953, amending Civil Service Rule VI.

Executive Order No. 10180 of November 13, 1950, establishing special personnel procedures in the interest of national defense.

PART IV

SEC. 401. This order shall become effective on the first Sunday after the sixtieth day after the date hereof.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
November 22, 1954.

[F. R. Doc. 54-9322; Filed, Nov. 22, 1954; 11:42 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

REVISION OF CIVIL SERVICE RULES

CROSS REFERENCE: For revision of the Civil Service Rules (§§ 1.1, 2.1–2.3, 3.1, 3.2, 4.1–4.4, 5.1–5.5, 6.1–6.3), see Executive Order 10577, *supra*.

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 11—SALES OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

SUBPART A—REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF SURPLUS AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

Sec.
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AUTHORITY: §§ 11.1 to 11.15 issued under sec. 102, 68 Stat. 454, E. O. 10560, 19 F. R. 5927. Interpret or apply secs. 2, 101, 68 Stat. 454.

§ 11.1 *Definition of terms.* For the purposes of this subpart:

(a) "The act" shall mean title I of the Agricultural Trade Development and Assistance Act of 1954 (Pub. Law 480, 83d Cong.).

(b) "Form 480–A" shall mean FAS Form 480–A, "Authorization to Purchase Surplus Agricultural Commodities with Foreign Currency," issued to an importing country pursuant to this subpart.

(c) "FAS" shall mean the Foreign Agricultural Service, U. S. Department of Agriculture.

(d) "CCC" shall mean the Commodity Credit Corporation, U. S. Department of Agriculture.

(e) "AMS" shall mean the Agricultural Marketing Service, U. S. Department of Agriculture.

(f) "CSS" shall mean the Commodity Stabilization Service, U. S. Department of Agriculture.

(g) "CSS Offices" shall mean the CSS Divisions, the CSS Commodity Offices listed in § 11.15, and any other offices or agencies which may succeed to the functions of such offices.

(h) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service or his designee.

(i) "The Controller, CCC" shall mean the Controller, Commodity Credit Corporation, or his designee.

(j) "Importing country" shall mean any nation with which an agreement has been negotiated pursuant to section 101 of the act.

(k) "Importer" shall mean any person or organization, governmental or otherwise, to which an importing country makes a sub-authorization under a Form 480–A.

(l) "Approved applicant" shall mean the applicant named in any letter of commitment issued to a banking institution under this subpart and shall include any agent authorized to act on behalf of such an applicant.

(m) "Supplier" shall mean any person or firm which sells any commodity or furnishes ocean freight or insurance to an importer under the terms of a Form 480–A authorization.

(n) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(o) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the commodity in export channels (e. g. f. o. b. vessel, c. & f., from consignment stocks, etc.).

§ 11.2 *General statement.* This subpart contains the regulations governing the operation of the program for the sale and exportation of surplus agricultural commodities for foreign currencies under the act, including the submission of applications to purchase agricultural commodities for foreign currency under the act, the issuance of authorizations to purchase, and the financing of the sale and exportation of such commodities through private trade channels. Except in the case of cotton, consignment stocks, i. e., stocks shipped from the United States prior to the date of sale under this program, will not be financed unless specifically provided for in the Form 480–A authorization. General information pertaining to the operation of this program and forms prescribed for use thereunder can be obtained upon request to the Director, Foreign Trade Programs Division, FAS, U. S. Department of Agriculture, Washington 25, D. C.

§ 11.3 *Applications.* Importing countries desiring to purchase surplus agricultural commodities under the program shall submit applications covering such commodities and containing such information as may have been requested by the Administrator. Applications shall be submitted in quadruplicate, addressed to the Administrator, FAS, U. S. Department of Agriculture, Washington 25, D. C. Supplementary information with respect to applications may be required from time to time.

§ 11.4 *Authorizations.* (a) The Administrator shall provide for review of each application submitted pursuant to § 11.3 to determine whether approval of the application would be in accordance with the provisions of the act and the policies of the U. S. Government. If such determination is favorable, the Administrator will issue a Form 480–A authorization for such procurement as soon as practicable after agreement by the importing country to the terms thereof.

(b) Each Form 480–A will specify the commodity to be purchased; the approximate quantity which may be purchased pursuant to the authorization and whether such commodity or its equivalent must be obtained by suppliers from CCC stocks; the maximum dollar amount; the method of financing and the CSS office which will administer the financing operation on behalf of CCC; the periods during which contracts between importers and suppliers may be entered into and during which deliveries may be made; provisions governing the deposit of the foreign currency purchase price; and any other provisions deemed necessary by the Administrator.

(c) In order to be eligible for financing under the applicable Form 480–A, contracts between importers and suppliers must be entered into within the specified contracting period and deliveries must be made within the specified delivery period, unless an extension of such contracting period or delivery period is granted in writing by the Administrator.

(d) Each Form 480–A issued shall be deemed to include the following provisions:

(1) *Modification or revocation.* The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke any Form 480–A authorization (including the termination of deliveries thereunder). CCC shall reimburse suppliers for costs incurred in connection with firm sales contracts, and not otherwise recovered, as the result of such action by the Administrator: *Provided, however,* That such reimbursement shall not be made to a supplier if the Administrator determines that such action was taken by him because of failure

by such supplier to comply with the requirements of this program.

(2) *Refund to CCC.* The importing country shall pay in U. S. dollars promptly to CCC upon demand by the Administator the entire amount financed (or such lesser amount as the Administrator may demand) whenever the Administrator determines that the importing country has violated any undertaking or failed to fulfill any commitment agreed to or made by it in connection with the transaction financed. An equivalent amount (at the agreed exchange rate) of the foreign currency, if deposited for that transaction, will be refunded to the importing country, except to the extent that any currency deposited under this program has been made available to the importing country on a grant basis.

(3) *Discounts.* If a contract provides for one or more discounts, only the invoice amount after discount (supplier's gross price less all discoupts) will be eligible for financing.

(4) *Purchasing agent's commissions.* No commission paid or to be paid to an agent, broker, or other representative of an importer will be eligible for financing, whether included in the unit price of the commodity or separately stated.

(5) *Adjustment refunds and adjustment credits.* Any adjustment refund or credit in favor of the importer arising out of the terms of the contract or out of the normal customs of the trade, shall be made by the supplier direct to the importer in U. S. dollars. Upon determination of a claim for an adjustment, the supplier shall immediately give written notice to the CSS office named in the Form 480–A authorization, indicating the Form 480–A authorization number, the name and address of the importer, the date and amount of the original invoice, and the reason for the refund or credit and the amount thereof. The importing country shall pay in U. S. dollars promptly upon demand by the Administrator the amount paid or credited under any such claims. An equivalent amount (at the agreed exchange rate) of the foreign currency, if deposited for that transaction, will be refunded to the importing country.

(6) *Insurance payable to or for the account of the importer.* Where the supplier pays for out-turn, war risk or other marine insurance payable to or for the account of the importer, the policies of insurance shall provide that all claims shall be paid in U. S. dollars and that the underwriter shall notify the CSS office named in the Form 480–A authorization at the time a claim thereunder is paid, indicating the Form 480–A authorization number, the names and addresses of the supplier, importer and payee of the claim, the amount paid, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. The importing country shall pay in U. S. dollars promptly to CCC upon demand by the Administrator the amount paid under any such claim. An equivalent amount (at the agreed exchange rate) of the foreign currency, if deposited for that transaction, will be refunded to the importing country. This subparagraph applies only where the cost of insurance is covered by the unit price of the commodity pursuant to specific authorization in the applicable Form 480–A. Unless specifically authorized, the cost of insurance will not be financed by CCC and must not be covered by the unit price or net invoice price.

(7) *Ocean freight financed as part of the commodity price.* All export sales contracts requiring payment of ocean freight by the supplier shall provide that demurrage and dispatch both at point of loading and point of discharge, shall be for the account of the supplier. The contract may provide that the importer shall reimburse the supplier for any amount by which demurrage at the point of discharge exceeds dispatch at that point, but any such amount will not be financed by CCC. Discharge costs on shipments under any such contract may be for the account of the vessel only when in accordance with trade custom. This subparagraph applies only where the cost of ocean freight is covered by the unit price of the commodity pursuant to specific authorization in the applicable Form 480–A. In the absence of such specific authorization the cost of ocean freight must not be covered by the unit price or net invoice price.

(8) *Ocean freight financed separately from commodity price.* Reimbursement will not be made for demurrage incurred in excess of dispatch earnings. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; the balance shall be refunded to CCC. Discharge costs may be for the account of the vessel only when in accordance with trade custom. This subparagraph applies only where the cost of ocean freight is financed separately from the commodity price pursuant to specific authorization in the applicable Form 480–A.

(9) *Airmail distribution of ocean bills of lading.* The importing country shall instruct importers to advise shippers to airmail at the time of loading two nonnegotiable copies (or photostats) of the on-board ocean bill of lading to the Administrator, FAS, U. S. Department of Agriculture, Washington 25, D. C.

(e) FAS will make public, with respect to each Form 480–A, information necessary to enable suppliers to initiate negotiations for sales under the program. Such information will be issued daily or as often as necessary in the form of a public release.

§ 11.5 *Sub-authorizations.* The importing country concerned will make sub-authorizations to importers within the terms of each Form 480–A. The importing country, in sub-authorizing, shall instruct the importer to use the Form 480–A number in placing orders, and shall specify to importers all of the provisions of the Form 480–A which are applicable to the sub-authorization. Each importer to whom a sub-authorization has been made by his Government must inform his supplier that the transaction is to be financed under the act and must give to his supplier the Form 480–A number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction. The supplier must put the Form 480–A number on all documents pertaining to the transaction.

§ 11.6 *Commodities eligible for financing.* (a) Only those commodities named in the Form 480–A authorizations will be eligible for financing thereunder. Stocks acquired from CCC under any other CCC program which requires exportation shall not be eligible for financing under this program. Commodities in connection with which financing is received hereunder shall not be eligible under any other export program of CCC or the U. S. Department of Agriculture, notwithstanding any provision of such other program, unless the applicable Form 480–A specifically provides for such eligibility.

(b) (1) If the supplier will be required to obtain the commodity (or its equivalent) from CCC stocks (i. e., stocks owned by, or pledged or mortgaged to, CCC), the Form 480–A authorization covering such commodity will so state and CCC (AMS or CSS) will issue an Announcement containing the terms and conditions under which supplier may purchase the commodity or its equivalent from CCC stocks, or the public release issued in connection with the Form 480–A will specify an existing Announcement under which such purchases shall be made. The stocks exported by the supplier in such a case must be the identical stocks so purchased unless the applicable Announcement authorizes the exportation of (i) private stocks equivalent to those purchased from CCC stocks or (ii) private stocks, with equivalent stocks to be purchased subsequently from CCC stocks by the supplier. The Announcement, in each case, will define "equivalent" as used therein in terms of value, quantity, and/or quality, and in terms of the unprocessed commodity equivalent of a processed commodity, if applicable. The Announcement will also specify the AMS or CSS offices in Washington or in the field which may be contacted for further details.

(2) If the supplier will not be required to obtain the commodity (or its equivalent) from CCC stocks, the Form 480–A authorization covering such commodity will so state. Announcements containing special terms and conditions applicable to the financing of such commodities may be issued by CCC (AMS or CSS) from time to time.

§ 11.7 *Methods of financing the sale and exportation of commodities.* Upon request therefor submitted by importing countries, the Controller, CCC, will issue letters of commitment to banking institutions, obligating CCC to make reimbursement for sight payments made by them through irrevocable commercial letters of credit (hereinafter referred to as "letters of credit") on behalf of an approved applicant. The amount of payments to be made to suppliers, for reimbursement by CCC, will vary under the following circumstances:

(a) If the supplier is required under the provisions of the Form 480–A authorization to obtain the commodity or

its equivalent from CCC stocks, the supplier as a condition of receiving payment under the letter of credit must furnish to the banking institution a statement on CCC Form 330, "Advice of Financial Arrangements", signed by the Director or Acting Director of any CSS office, to the effect that the supplier has obtained or made arrangements to obtain the commodity or its equivalent from CCC stocks. (Unless CCC Form 330 is furnished by the supplier, all payments under the letter of credit shall be made or credited to CCC.) CCC Form 330 will not be issued by CCC until a letter of credit in favor of the supplier has been issued or confirmed by the banking institution on behalf of an approved applicant named in a CCC letter of commitment. Under the letter of credit, the supplier shall be paid the amount of his net invoice price of the commodity sold and exported less any amount payable to CCC as stated on the CCC Form 330, and such amount payable to CCC shall be paid or credited to CCC as required by the letter of commitment. Final accounting, if necessary, will be made directly between CCC and the supplier as soon as possible after final export shipment is made by the supplier under the Form 480–A authorization. CCC may require payment in advance for commodities sold to suppliers or may require such other financial arrangements as CCC deems necessary to protect its interests, prior to issuance of CCC Form 330. The financial arrangements to be required in such cases will be included in the Announcement containing the terms and conditions under which suppliers will purchase the commodity or its equivalent from CCC stocks.

(b) If the supplier is not required under the provisions of the Form 480–A authorization to obtain the commodity or its equivalent from CCC stocks, the amount paid to the supplier shall be his net invoice price, expressed in dollars, of the commodity sold and delivered in export channels. The letter of commitment issued in such cases will specifically provide that the CCC Form 330 will not be required.

§ 11.8 *Letters of commitment to banking institutions.* (a) Letters of commitment issued by CCC to banking institutions under this program will assure reimbursement to the banking institution, not in excess of a specified amount in dollars and in accordance with the terms of such letter of commitment, for sight payments made under letters of credit for the account of an approved applicant. With respect to amounts payable to CCC under the letters of credit, the applicable letters of commitment may require the banking institution to credit such amounts in reduction of the obligation of CCC under such letters of commitment in lieu of disbursing such amounts to CCC and requesting reimbursement. Unless otherwise indicated, the word "payment" as used in this subpart includes the crediting of any such amount to CCC.

(b) The letter of commitment will name the Federal Reserve Bank to which drafts shall be submitted by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit, and will name the CSS office which will administer the financing operation under the letter of commitment on behalf of CCC. Detailed advice of amounts paid under letters of credit (including amounts credited to CCC), upon such form as may be prescribed by the Controller, CCC, and signed by an officer of the banking institution, shall be forwarded (1) to the Federal Reserve Bank with the draft for reimbursement of such amounts or (2) to the CSS office, if such advice relates only to credits made to CCC.

(c) Payments by a banking institution made in anticipation of a letter of commitment and falling within the scope of payments authorized by such a letter of commitment when issued will be deemed to be payments to be reimbursed thereunder.

(d) Each letter of commitment issued to a banking institution shall be deemed to incorporate the following terms and provisions:

(1) The application or request for, and any agreement relating to, any letter of credit issued or confirmed under a letter of commitment to a banking institution, may be in such form and contain such terms and provisions as the approved applicant and banking institution may agree upon, and the approved applicant and banking institution may agree to any extension of the life of, or any other modification of, or variation from, the terms of any such letter of credit: *Provided*, That such terms and provisions and any such extension, modification or variance are in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment, and in case of any inconsistency or conflict, the terms and provisions of the letter of commitment shall control. In any event every application for a letter of credit shall include the substance of the directions as to documentation required by this subpart to support payments made for the account of an approved applicant.

(2) Sight drafts drawn by the banking institution on CCC, and advices of amounts credited in reduction of CCC's obligation under the letter of commitment, shall be supported by the documents required by § 11.9 (a) and any additional documents specified in the applicable Form 480–A authorization or in the letter of commitment.

(3) The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate non-compliance with any provision of this subpart, or of the Form 480–A authorization, or of the letter of commitment, or may be inconsistent with other required documents.

(4) The banking institution shall furnish the CSS office named in the letter of commitment a copy of each letter of credit issued or confirmed by it, and of any extension or modification thereof. Each letter of credit, modification, or extension shall bear the numbers and dates of the applicable letter of commitment and Form 480–A. The banking institution shall make available to the CSS office named in the letter of commitment, upon request, a copy of each application and agreement relating to such letter of credit; a copy of each document in its possession received by it under the letter of credit; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(5) Acceptance by the banking institution of any document in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank or the CSS office, as required, shall constitute full compliance by the banking institution with any provision of this subpart, the Form 480–A authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a sale at a price in excess of the maximum specified in § 11.11.

(6) The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke a Form 480–A authorization (including termination of deliveries thereunder): *Provided, however*, That no supplement, modification or revocation shall become effective as to the banking institution until the receipt by it from the Controller, CCC, of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any payment made prior to receipt of such notice, or any irrevocable obligation incurred under a letter of credit issued or confirmed prior to receipt of such notice, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on its part to obtain such repayment). The term "Form 480–A" authorization as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) In the event the Administrator shall revoke such Form 480–A authorization or supplement or modify the same in relation to the disposition of any document or documents and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or

confirmed by it, and it shall be repaid and reimbursed by CCC for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. Such repayment and reimbursement shall be made by CCC upon application therefor filed with the CSS office named in the letter of commitment and supported by an itemized statement of the costs, expenses and liabilities, certified to by an officer of the banking institution. The banking institution shall have no obligation or liability whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Controller, CCC.

(8) Unless the letter of commitment specifically provides otherwise, letters of credit issued or confirmed by the banking institution shall provide that the net amount of all invoices submitted by the supplier under such letters of credit shall be paid or credited to CCC by the banking institution unless a lesser amount is specified on CCC Form 330, "Advice of Financial Arrangements."

(9) The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

§ 11.9 *Documentation—(a) Commodity cost (including ocean freight and insurance where financed as part of the commodity cost).* Drafts drawn on CCC by banking institutions for reimbursement of payments made under letters of credit, and advices of credits made to CCC, must be supported by the following documents (each of which must be identified by the appropriate Form 480–A authorization number), except when and to the extent specifically waived in writing by the Controller, CCC.

(1) Supplier's certificate, in duplicate, with invoice-and-contract abstract on the reverse side (CCC Form 329), covering the supplier's net invoice price expressed in dollars. The supplier's certificate, only the original of which should be signed, is as follows:

COMMODITY CREDIT CORPORATION FORM 329
NOVEMBER 1, 1954

SUPPLIER'S CERTIFICATE

The supplier hereby acknowledges notice that the sum indicated on the accompanying invoice as claimed to be due and owing under the terms of the underlying contract, is to be paid out of funds made available by the Commodity Credit Corporation under the Agricultural Trade Development and Assistance Act of 1954 and further certifies and agrees with CCC as follows:

(1) The supplier is entitled under said contract to the payment of the claimed sum, and he will promptly make appropriate refund to the CSS office named in the Form 480–A authorization in the event of his nonperformance, in whole or in part, under said contract, or for any breach by him of the terms of this certificate.

(2) Adjustment refunds or credits arising out of the terms of the contract or the customs of the trade shall be made direct to the buyer by the supplier but the supplier shall promptly notify the CSS office concerning any such adjustment refunds or credits so that appropriate refund may be obtained from the importing country. If any adjustment results in an additional charge to the importer, the supplier will promptly notify the CSS office of such additional charge.

(3) The supplier is in compliance with any conditions and requirements of the Form 480–A authorization with respect to the purchase of commodities from CCC stocks prior to exportation.

(4) The supplier is the producer, processor, or exporter of, or a regular dealer in, the commodity, or is the ocean carrier who furnished transportation under said contract, and has not employed any person to obtain said contract under any agreement for a commission, percentage, or contingent fee, except to the extent, if any, of the payment of a commission to a bona fide established commercial or selling agent employed by the supplier as disclosed on the reverse of this form.

(5) The supplier has not given or received and will not give or receive by way of side payment, "kickbacks," or otherwise, any benefit in connection with said contract except as is disclosed on the reverse of this form, or as is the result of the adjustments referred to in paragraph (2) above.

(6) Unless authorized by the applicable Form 480–A, the net invoice price does not contain any amount to cover the cost of ocean freight or insurance.

(7) If the applicable Form 480–A so authorizes and the export sales contract requires payment by the supplier of ocean freight or ocean freight and insurance, any net dispatch earnings are for the account of the supplier under such contract; discharge costs are for the account of the vessel only if in accordance with trade custom; and the policies of insurance contain a provision requiring the underwriter to notify the CSS office of any claim paid.

(8) If the supplier is the producer, or processor of a commodity, said contract is not a cost plus-a-percentage-of-cost contract.

(9) On the basis of information contained from such sources as are available to the supplier, and to the best of his information and belief, the commodity was grown in the United States and, if processed, such processing was performed in the United States. (This certification is not required where the commodities exported were the identical commodities purchased from CCC.)

(10) On the basis of information obtained from such sources as are available to the supplier, and to the best of his information and belief, his sales price is no higher than the maximum specified in the applicable regulations of the U. S. Department of Agriculture or in the Form 480–A authorization.

(11) The supplier has complied with the applicable requirements of said regulations, and has allowed all discounts, including discounts for quantity purchases and prompt payment, customarily allowed his other customers similarly situated.

(12) If the supplier is an ocean carrier, he shall not be deemed to certify to paragraphs (3), (6), (7), (9), (10) and (11) but instead certifies that the rate indicated on the reverse of this form for ocean transportation does not exceed the prevailing rate for similar freight contracts or the rate paid to the supplier for similar services by other customers similarly situated.

(13) The supplier has filled in the applicable portions of the invoice-and-contract abstract on the reverse hereof, certifies to the correctness of the information shown therein, and will furnish promptly to the CSS office, upon request, such additional information in such form as the CSS office may require concerning price or any other details of the contract.

(Date)

(Authorized signature)

(Title)

NOTE: Any amendments, deletions of applicable provisions, or substitutions will invalidate this certificate.

Before executing the supplier's certificate, the supplier shall fill in the invoice-and-contract abstract on the reverse side in accordance with the instructions attached to the form. The information required by the abstract is generally as follows:

(i) Invoice information, including the supplier's name and address, the importer's name and address, and detailed billing and shipping data.

(ii) Information relating to agents' commissions paid or to be paid.

(iii) Contract and price information expressed in dollars including a reconciliation of the contract and invoice prices applicable.

(2) One non-negotiable copy (or photostat) of on-board bill of lading or, in the case of export rail or truck shipment, one copy of Shipper's Export Declaration authenticated by the appropriate U. S. Customs official.

(3) Two copies (or photostats) of supplier's detailed invoice showing quantity, description, gross sales price and net sales price expressed in dollars (after deducting all discounts and purchasing agents' commissions applicable), and basis of delivery (e. g., f. o. b. vessel, c. i. f., etc.) of the commodities, and either marked "Paid" by the supplier or endorsed by, or accompanied by a certificate of, an officer of the banking institution indicating that payment has been made in the amount shown on the invoice.

(4) One copy of CCC Form 330, "Advice of Financial Arrangements", if applicable (see § 11.8 (d) (8)), which shall be submitted to the Federal Reserve Bank or to the CSS office, as required, with the documents covering the last shipment under the letter of credit.

(5) One copy of CCC Form 106, "Advice of Vessel Approval."

(6) Such additional or substitute documentation, if any, as may be required for reimbursement by the Form 480–A authorization or letter of commitment.

(b) *Cost of ocean transportation where financed separately from commodity cost.* Requests by importing countries to CCC, pursuant to § 11.12 (c) (2), for reimbursement of payments made for ocean transportation, must be supported by the following documents, (each of which must be identified by the appropriate Form 480–A authorization number) except when and to the extent specifically waived in writing by the Controller, CCC:

(1) Supplier's certificate, in duplicate, with invoice-and-contract abstract on the reverse side (CCC Form 329), to be executed by the carrier, covering the dollar cost of ocean transportation.

(2) One non-negotiable copy (or photostat) of on-board ocean bill of lading.

(3) Two copies (or photostats) of carrier's detailed invoice marked "Paid".

(4) One copy of CCC Form 106, "Advice of Vessel Approval".

(5) Such additional or substitute documentation, if any, as may be required by the Form 480–A authorization.

§ 11.10 *Responsibilities of banking institutions.* (a) Documents required to

support advices of credits to CCC and to support drafts for reimbursement are enumerated in § 11.9 (a). Such documents, in either case, are referred to in this section as "required documents".[1] Any additional documents required with respect to any particular transaction will be specified as such in the Form 480–A authorization related to that transaction and to the corresponding letter of commitment, or in the letter of commitment itself. A banking institution holding a letter of commitment is not required by CCC to obtain any documents other than those enumerated in § 11.9 (a) and any additional documents so specified.

(b) A banking institution is not responsible for the truth or accuracy of the statements contained in any of the required documents. A banking institution is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

(c) (1) A banking institution's examination of the required documents must be made in accordance with good commercial practice. A banking institution is responsible for ascertaining that the required documents are consistent with the related Form 480–A authorization and letter of commitment in the following particulars, and no others:

(i) Delivery, to the extent described in paragraph (d) of this section;

(ii) Destination, to the extent described in paragraph (e) of this section;

(iii) Description, to the extent described in paragraph (f) of this section;

(iv) Discounts and purchasing agents' commissions, to the extent described in paragraph (g) of this section;

(v) Amounts to be paid or credited to CCC, to the extent described in paragraph (h) of this section.

(vi) Vessel approval, to the extent described in paragraph (i) of this section.

(vii) If the banking institution is to be responsible for any additional particulars, these will be specified in the Form 480–A authorization or letter of commitment as addition required documents or as additional statements to be contained in the required documents.

(2) The right of reimbursement for payments made by a banking institution in accordance with good commercial practice will not be affected by the information contained in the invoice-and-contract abstract, nor, except with respect to those particulars listed in subparagraph (1) (i) through (vii) of this paragraph, by the fact that the other documents received by the banking institution or information or notice received from any other source indicate noncompliance with any provision of this subpart, or of the Form 480–A or the letter of commitment.

(3) The foregoing shall not be construed to limit any rights CCC may have against a supplier by reason of statements contained in the supplier's certificate, nor against an importing country under § 11.4 (d) (2).

[1] In paragraphs (c), (e), (f) and (g) of this section, the phrase "required documents" does not include the invoice-and-contract abstract, as to which see § 11.9 (a) (1).

(d) Section 11.4 (c) permits delivery under the Form 480–A authorization at any time within the delivery period specified in the Form 480–A authorization. If any of the documents specified in § 11.9 (a) (2) or in the Form 480–A authorization or in the letter of commitment are dated at any time within that period or any extension thereof granted by the Administrator, they are acceptable.

(e) The Form 480–A authorization will show the importing country. If the required documents are consistent, under good commercial practice, with shipment or transshipment to such country, they are acceptable.

(f) The Form 480–A authorization will describe the commodity. In issuing or confirming letters of credit, a banking institution should see that the commodity description is not inconsistent with the description in the Form 480–A authorization. In making payments under letters of credit the banking institution shall act in accordance with good commercial practice, based on the description contained in the required documents.

(g) A banking institution is not required to make independent inquiry as to whether an invoice price includes either discounts, or commissions payable to purchasing agents, but should not make payment of any such items when disclosed by the required documents.

(h) Unless the letter of commitment specifically provides otherwise, the banking institution is responsible for paying, or if required by the letter of commitment for crediting, CCC with the net amount of the invoice(s) if CCC Form 330, "Advice for Financial Arrangements", is not submitted. If CCC Form 330 is submitted, the banking institution is not required to verify the signature appearing thereon, or to make an independent inquiry as to the correctness of the information shown on the form; the banking institution is responsible for paying or crediting CCC with any amount shown on the CCC Form 330.

(i) The banking institution shall not make payment under the letter of credit unless the name of the vessel shown on the CCC Form 106, "Advice of Vessel Approval", is identical with the name of the vessel shown on the bill of lading. The banking institution is not required to verify the signature appearing on the form or to make an independent inquiry as to the correctness of the information shown thereon.

(j) (1) Section 11.4 sets forth certain provisions to be deemed incorporated in each Form 480–A authorization. The documents required by § 11.9 (a) includes a supplier's certificate showing compliance with some of these provisions. A banking institution is entitled to rely on such certificate. Special certificates may also be required by the terms of particular Form 480–A authorizations or letters of commitment; in such cases, a banking institution is entitled to rely on such certificates.

(2) Certain other provisions of § 11.4 are included solely for the instruction of suppliers, purchasers, and the participating countries themselves, and are not matters for which banks are to assume responsibility. In this category are the provisions of § 11.4 (d) (5), (6), (7), (8) and (9).

(k) Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with the provisions of § 11.4 (c) with respect to the period within which contracts may be entered into.

(l) Section 11.13 contains provisions concerning use of the Form 480–A authorization number, placement of orders, and delivery dates. Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with this section.

(m) The letter of commitment constitutes an obligation to reimburse banking institutions for any drafts negotiated under letters of credit prior to the date of maturity, if any, specified in the letter of commitment, even though such drafts are paid after such date.

(n) Upon demand therefor made by the CSS office named in the letter of commitment, the banking institution shall promptly reimburse CCC for any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this section.

§ 11.11 *Price provisions.* (a) The supplier's sales price must not exceed the prevailing range of export market prices (or such other maximum price level as may be specified in the Form 480–A authorization) as applied to the method of sale involved, at the time of sale. "Time of sale" shall mean the day as of which the sales price, or the method for determining the price, is established between the importer and the supplier.

(b) In the event the sales price exceeds the maximum permissible under paragraph (a) of this section, the supplier shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. Any appropriate refund of foreign currency will be made to the importing country. If not promptly refunded, such amount may be set-off by CCC against any monies owed by it to the supplier. The making of any such refund to CCC, or any such set-off by CCC shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

(c) No claim shall be asserted by CCC under this section unless the supplier is notified of such claim and of the amount thereof within 90 days after the earlier of (1) receipt by CCC of proof of the export sale certified by the supplier and showing the date of sale, the grade and quality of the commodity, the unit price and the price basis or (2) the date the required documents are presented to the banking institution by the supplier.

§ 11.12 *Ocean transportation.* (a) unless otherwise specifically provided in the applicable Form 480–A, the terms of all charters (whether single voyage charters, consecutive voyage charters or

time charters) and the terms of all liner bookings must be submitted to the Director, Transportation and Warehousing Division, CSS, U. S. Department of Agriculture, Washington 25, D. C., for review and approval prior to the fixture of vessels. Such submission shall be made on CCC Form 105 "Ocean Shipment Data—Title I, P. L. 480". Approvals of charters and liner bookings will be given on CCC Form 106 "Advice of Vessel Approval", signed by the Director or the Acting Director of the Transportation and Warehousing Division. A copy of each charter party and ocean booking contract shall be forwarded to the Director of the Transportation and Warehousing Division.

(b) If the Form 480–A requires that a part of the commodity be shipped on privately owned United States-flag commercial vessels, suppliers or shippers must obtain from the Director or Acting Director of the Transportation and Warehousing Division a determination as to the quantity of the commodity, under each sale, which must be shipped on United States-flag vessels. Where it is required that the commodity be shipped on a United States-flag vessel the Form 106 will set forth the amount of the ocean freight differential, if any, which CCC will recognize as existing between the prevailing foreign-flag vessel rate and the United States-flag vessel rate.

(c) CCC will not finance the cost of ocean transportation on flag vessels of the importing country either as part of the commodity cost (i. e., c. i. f., c & f.) or separate therefrom. The cost of ocean transportation will be financed by CCC on flag vessels of other than the importing country only when specifically provided for in the applicable Form 480–A authorization. Where ocean transportation is so provided for, the following shall apply:

(1) Where ocean transportation is covered by the commodity unit price, CCC will pay the amount of the ocean freight differential, if any, stated on the Form 106, for the tonnage involved, directly to the supplier of the commodity. Such payment will be made by the CSS office named in the Form 480–A, upon presentation of proper invoice.

(2) Where the ocean transportation is procured separate from the commodity, CCC, upon presentation to the Fiscal Division, CSS, U. S. Department of Agriculture, Washington 25, D. C., of the documents required under § 11.9 (b), will reimburse the importing country for payments made for ocean transportation, subject to the following conditions:

(i) The rate charged by the supplier of ocean transportation shall not exceed the prevailing rate for similar freight contracts.

(ii) Reimbursement will be made for the cost of shipment from points of loading to points of discharge at rates established in the applicable charter party or ocean booking contract, but not to exceed, in the case of dry cargo liner shipments, the conference rate for such service, if any.

(iii) In the case of dry bulk cargo shipments, reimbursement will be made of 90 percent of the cost of the shipment on presentation of documents covering at least 90 percent of the cost of the shipment, and the balance, if any, supported by the vessel's signed laytime statement(s) will be paid after final settlement of dispatch/demurrage claims.

(iv) Loading, trimming and other related shipping expenses will not be financed by CCC as items separate from ocean freight. Discharge costs may be covered by the ocean freight financed by CCC only when in accordance with trade custom.

(v) The importing country will not be required to deposit foreign currency for the amount of ocean freight differential, stated on the Form 106, for the tonnage involved.

(d) CCC will not finance the cost of ships' dollar disbursements.

§ 11.13 *Additional responsibilities of importers and suppliers.* (a) Each importer to whom a sub-authorization has been made by his Government must inform his supplier that the transaction is to be financed under the act and must give to his supplier the Form 480–A number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

(b) The supplier must put the Form 480–A number on all documents required by § 11.9 (a).

(c) An importer must comply with the contract and delivery dates specified in his sub-authorization by the importing country. A supplier must not accept orders identified by a Form 480–A number unless he expects to comply with the contract and delivery dates specified.

(d) It is the responsibility of the supplier to assure that he does not make shipments or deliveries of commodities prior to the issuance or confirmation by a banking institution in the United States of an irrevocable commercial letter of credit in his favor.

(e) The rate of exchange and the deposit to the account of the United States of the foreign currency purchase price of the commodity will be arranged between the Governments of the United States and the importing country. The supplier will not be responsible for assuring that the foreign currency is so deposited.

§ 11.14 *Saving clause.* The Administrator, if he deems such action desirable in order to accomplish the purposes of the act, may waive, withdraw, or amend at any time, or from time to time any or all of the provisions of this subpart.

§ 11.15 *CSS Commodity Offices.* The addresses of the CSS Commodity Offices are as follows:

CSS Commodity Office, U. S. Department of Agriculture, 623 South Wabash Avenue, Chicago 5, Ill.

CSS Commodity Office, U. S. Department of Agriculture, 3306 Main Street, Dallas 26, Tex.

CSS Commodity Office, U. S. Department of Agriculture, Fidelity Building, 911 Walnut Street, Kansas City 6, Mo.

CSS Commodity Office, U. S. Department of Agriculture, 1006 West Lake Street, Minneapolis 8, Minn.

CSS Commodity Office, U. S. Department of Agriculture, 515 Southwest Tenth Ave., Portland 5, Oreg.

CSS Commodity Office, U. S. Department of Agriculture 1010 Broadway, Cincinnati 2, Ohio.

CSS Commodity Office, U. S. Department of Agriculture, Wirth Bldg., 120 Marais St., New Orleans 16, La.

Done at Washington, D. C., this 19th day of November 1954. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EARL L. BUTZ,
Acting Secretary of Agriculture.

[F. R. Doc. 54–9261; Filed, Nov. 22, 1954; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6210]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

K. C. SNOW CROP DISTRIBUTORS, INC., ET AL.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment or acceptance of commission, brokerage or other compensation under 2 (c): § 3.800 *Buyers' agents.* I. In connection with the purchase of food products in commerce, and on the part of respondent, Stoops & Wilson Brokerage Co., and its officers, and on the part of the individual respondents, Wendell R. Stoops and G. Arlon Wilson, individually and as officers of said Stoops & Wilson Brokerage Co., and their respective representatives, etc., receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the account of K. C. Snow Crop Distributors, Inc., where either of the respondents G. Arlon Wilson or Wendell R. Stoops, or both, are the agents, representatives, or other intermediaries acting for, or in behalf of, or are subject to the direct or indirect control of the said K. C. Snow Crop Distributors, Inc., or any other buyer; and II, in connection with the purchase of food products in commerce, and on the part of respondent, K. C. Snow Crop Distributors, Inc., and its officers, and on the part of said individual respondents, G. Arlon Wilson and Wendell R. Stoops, individually and as either officers or majority stockholders of said corporation, and on the part of their respective representatives, etc., receiving or accepting, directly or indirectly, from any seller anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the account of K. C. Snow Crop Distributors, Inc., or where either of the respondents G. Arlon Wilson or Wendell R. Stoops, or both, are the agents, representatives, or other intermediaries acting for, or in behalf of, or are subject to the direct or indirect control of the said K. C. Snow Crop Distributors, Inc., or any other buyer; prohibited.

(Secs. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, K. C. Snow Crop Distributors, Inc., et al., Kansas City Mo., D. 6210, Oct. 28, 1954]

In the Matter of K. C. Snow Crop Distributors, Inc., a Corporation; Stoops & Wilson Brokerage Company, a Corporation; G. Arlon Wilson, Individually and as Vice President of Stoops & Wilson Brokerage Company; Wendell R. Stoops, Individually and as President of Stoops & Wilson Brokerage Company

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission which charged respondents with having violated section 2 (c) of the Clayton Act, as amended by the Robinson-Patnam Act, and upon a stipulation for consent order, entered into by respondents, which provided that respondents admitted all the jurisdictional allegations of the complaint and waived the requirement for issuance of a decision containing findings of fact and conclusions of law, and further procedural steps before the hearing examiner and the Commission to which respondents might be entitled under the Clayton Act, as amended, or the rules of practice of the Commission.

By the terms of said stipulation respondents consented to the entry of an order to cease and desist in the form therein provided for, with the same force and effect as if said order had been made after a full hearing, presentation of evidence, and findings and conclusions thereon, and waived any and all right, power, or privilege to challenge or contest the validity of said order, it being further provided by said stipulation that the signing thereof and consent by respondents to the entry of the aforesaid order was for settlement purposes only and did not constitute an admission of any facts, other than those pertaining to jurisdiction, or that respondents had violated the law as alleged in the complaint.

Thereafter, the aforesaid stipulation for consent order and an accompanying affidavit of respondent G. Arlon Wilson having been submitted to said hearing examiner, theretofore duly designated by the Commission, for appropriate action in accordance with Rule V of the Commission's rules of practice, and it appearing to said examiner that said stipulation afforded the basis for an appropriate disposition of the proceeding, said stipulation and accompanying affidavit were accepted and ordered filed as part of the record in the proceeding and in accordance therewith said hearing examiner made his initial decision [1] setting forth the aforesaid matters, his jurisdictional findings,[1] and his order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on October 28, 1954.

Said order is as follows:

It is ordered, That the respondent, Stoops & Wilson Brokerage Company, a corporation, its officers, and the individual respondents Wendell R. Stoops and G. Arlon Wilson, individually and as officers of said Stoops & Wilson Brokerage Company, and their respective representatives, agents, and employees, directly or indirectly, or through any corporate or other device in connection with the purchase of food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the account of K. C. Snow Crop Distributors, Inc., where either of the respondents G. Arlon Wilson or Wendell R. Stoops, or both, are the agents, representatives or other intermediaries acting for, or in behalf of, or are subject to the direct or indirect control of the said K. C. Snow Crop Distributors, Inc., or any other buyer.

It is further ordered, That the respondent, K. C. Snow Crop Distributors, Inc., a corporation, its officers and the individual respondents, G. Arlon Wilson and Wendell R. Stoops, individually and as either officers or majority stockholders of said corporation, and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the purchase of food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from receiving or accepting, directly or indirectly, from any seller anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the account of K. C. Snow Crop Distributors, Inc., or where either of the respondents G. Arlon Wilson or Wendell R. Stoops, or both, are the agents, representatives, or other intermediaries acting for, or in behalf of, or are subject to the direct or indirect control of the said K. C. Snow Crop Distributors, Inc., or any other buyer.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6210, October 28, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 28, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9227; Filed, Mar. 22, 1954; 8:45 a. m.]

[1] Filed as part of the original document.

[Docket 6213]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

O. A. SUTTON CORP.

Subpart—*Advertising falsely or misleadingly:* § 3.170 *Qualities or properties of product or service.* In connection with the offering for sale, sale, or distribution of electric fans in commerce, representing, directly or by implication, the ventilating capacity or ventilating performance of respondent's said fans, through the use of a numerically expressed rating or otherwise, which rating or other statement as to capacity or performance is in excess of the amount of cubic feet of air per minute that such fan is capable of drawing through its blades under ordinary operating conditions, into or away from any place or area to be ventilated; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719; 15 U. S. C. 45) [Cease and desist order, O. A. Sutton Corporation, Wichita, Kans., Docket 6213, Nov. 4, 1954]

This proceeding was heard by Abner E. Lipscomb, hearing examiner, upon the complaint of the Commission which charged respondent with false and misleading advertising in the offer and sale of its "Vornado Turnabout Window Fans", in violation of the Federal Trade Commission Act; and upon a stipulation for consent order, submitted in lieu of an answer, entered into by respondent with counsel supporting the complaint, and duly approved by the Director and Assistant Director of the Bureau of Litigation.

By the terms of said stipulation respondent admitted all the jurisdictional allegations in the complaint and stipulated that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; expressly waived the filing of an answer to the complaint and further proceedings before the hearing examiner and the Commission; agreed that the order contained in said stipulation should have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and expressly waived all right, power, and privilege to contest the validity of said order.

Said stipulation further provided that the complaint might be used in construing the terms of the order contained therein, and that said order might be altered, modified, or set aside in the manner prescribed by statute for orders of the Commission, and agreed also that said stipulation, together with the complaint in the matter, should constitute the entire record in the proceeding—interpreted by said examiner in his initial decision, for reasons there stated, as meaning that it was agreed that the complaint and stipulation for consent order should constitute the entire record upon which the initial decision in the matter should be based.

Noting in his said initial decision in which he set forth the aforesaid matters, the further agreement in said stipulation that the order contained therein might be entered without further notice upon

the record, in disposition of the proceeding, and that the additional inclusion of the word "ventilating" in said order served merely to clarify the limitations of the default order appended to the complaint, he concluded that said stipulation for consent order should be accepted and that such action, together with the issuance of the order contained in the stipulation, would resolve all the issues arising by reason of the complaint in the proceeding, and would safeguard the public interest to the same extent as could be accomplished by full hearing and all other adjudicative procedure waived in said stipulation; and accordingly, in consonance with the terms of said agreement, accepted the stipulation for consent order submitted, and issued order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision,[1] including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on November 4, 1954.

Said order is as follows:

It is ordered, That respondent O. A. Sutton Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electric fans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, the ventilating capacity or ventilating performance of its said fans, through the use of a numerically-expressed rating or otherwise, which rating or other statement as to capacity or performance is in excess of the amount of cubic feet of air per minute that such fan is capable of drawing through its blades under ordinary operating conditions, into or away from any place or area to be ventilated.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6213, November 4, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That respondent O. A. Sutton Corporation, a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: November 4, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9233; Filed, Nov. 22, 1954; 8:47 a. m.]

[1] Filed as part of the original document.

[Docket 6216]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

WOOSTER RUBBER CO.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment for services or facilities for processing, or sale, under 2 (d): § 3.825 *Allowances for services or facilities;* [*Discriminating in price under section 2, Clayton Act, as amended*]—furnishing services or facilities for processing, handling, etc., under 2 (e): § 3.830 *Furnishing services or facilities.* In, or in connection with, the offering for sale, sale, or distribution of household or kitchen or automobile accessories or equipment made of rubber, or of which rubber is a part, or any other household or kitchen or automobile accessories or equipment, in commerce: (a) Paying, or contracting for the payment of, anything of value to or for the benefit of any customer of respondent as compensation or in consideration for any advertising services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products manufactured or sold by respondent, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products; (b) discriminating, directly or indirectly, among competing purchasers of its products, by contracting to furnish, or furnishing, or contributing to the furnishing of any demonstrator services or facilities connected with the processing, handling, sale, or offering for sale of any products manufactured or sold by respondent to any purchaser upon terms not accorded to all competing purchasers on proportionally equal terms; and (c) the commission of any other like or related acts or practices to those set forth in prohibitions (a) and (b) above; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13). [Cease and desist order, Wooster Rubber Company, Wooster, Ohio, Docket 6216, Oct. 31, 1954]

This proceeding was heard by William L. Pack, hearing examiner, upon the complaint of the Commission, which charged respondent with violation of subsections (d) and (e) of Section 2 of the Clayton Act, as amended, in connection with the making of advertising allowances and the furnishing of demonstrator services incident to the sale of respondent's "Rubbermaid" kitchen and household accessories and automobile mats; and upon a stipulation entered into by respondent and counsel supporting the complaint.

Said stipulation provided, among other things, that respondent admitted all of the jurisdictional allegations of the complaint; that the filing of an answer thereto was waived; that the complaint and stipulation should constitute the entire record in the proceeding; and that the inclusion of findings of fact and conclusions of law in the decision disposing of the matter was also waived, together with any further procedural steps before the hearing examiner and the Commission to which respondent might be entitled under the Clayton Act, as amended, or the rules of practice of the Commission.

By said stipulation it was further provided that the order set forth might be entered in disposition of the proceeding, with the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, respondent specifically waiving any and all right, power, and privilege to challenge or contest the validity thereof; that the complaint might be used in construing the terms of the order; that it might be altered, modified, or set aside in the manner provided by statute for other orders of the Commission; and that the signing of the stipulation was for settlement purposes only and did not constitute an admission by respondent that it had violated the law as alleged in the complaint.

Thereafter said examiner made his initial decision in which he set forth the aforesaid matters and that the stipulation was accepted and made a part of the record, and issued order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision,[1] including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on October 31, 1954.

Said order is as follows:

It is ordered, That respondent, Wooster Rubber Company, a corporation, directly or indirectly, through its officers, directors, agents, representatives or employees, or through any corporate or other device, or otherwise, in, or in connection with, the offering for sale, sale or distribution of household or kitchen or automobile accessories or equipment made of rubber, or of which rubber is a part, or any other household or kitchen or automobile accessories or equipment, in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

(a) Paying, or contracting for the payment of, anything of value to or for the benefit of any customer of respondent as compensation or in consideration for any advertising services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products manufactured or sold by respondent, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products.

(b) Discriminating, directly or indirectly, among competing purchasers of its products, by contracting to furnish, or furnishing or contributing to the furnishing of any demonstrator services or facilities connected with the processing, handling, sale or offering for sale

of any products manufactured or sold by respondent to any purchaser upon terms not accorded to all competing purchasers on proportionally equal terms.

(c) The commission of any other like or related acts or practices to those herein set forth in paragraphs (a) and (b) of this order.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6216, October 29, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: October 29, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9234; Filed, Nov. 22, 1954; 8:47 a. m.]

[Docket 6217]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

BRONCO MFG. CORP. ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1330 *Specifications or standards conformance.* In the offering for sale, sale, or distribution of wearing apparel in commerce, or of any other garments, representing, directly or by implication, by marking, branding, labeling, tagging, or in any other manner contrary to fact, that such merchandise was manufactured for the Armed Forces of the United States or in accordance with specifications of said Armed Forces; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719; 15 U. S. C. 45) [Cease and desist order, Bronco Mfg. Corp. et al., New York, N. Y., Docket 6217, Oct. 28, 1954]

In the Matter of Bronco Mfg. Corp., a Corporation, and Murray Spiewak and Peter Spiewak, Individually and as Officers of Said Corporation.

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission which charged respondents with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of the Federal Trade Commission Act, and upon a stipulation for consent order, entered into by them, which provided that the answer theretofore filed by them was withdrawn and expressly waived a hearing before a hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, and the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner or the Commission to which respondents might be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By the terms of said stipulation, respondents consented to the entry of an order to cease and desist in the form therein provided for, to have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and respondents waived any and all right, power, or privilege to challenge or contest the validity of said order, it being further provided by said stipulation that the signing thereof was for settlement purposes only and did not constitute an admission of violation by respondents, except that respondents admitted all the jurisdictional allegations of the complaint.

Thereafter, it appearing that said stipulation, which had been submitted to said hearing examiner, theretofore duly designated by the Commission, for his consideration in accordance with Rule V of the Commission's rules of practice, provided for an appropriate disposition of the proceeding, said stipulation was accepted and ordered filed as part of the record in the matter by said examiner, who, after considering the complaint and said stipulation, found that the proceeding was in the interest of the public, and made his initial decision [1] setting forth the aforesaid matters, his jurisdictional findings,[1] and his order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on October 28, 1954.

Said order is as follows:

It is ordered, That respondents Bronco Mfg. Corp., a corporation, and Murray Spiewak and Peter Spiewak, individually and as officers of said corporate respondent and respondents' agents, representatives, and employees, directly or through any corporate or other device, in the offering for sale, sale or distribution of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, or of any other garments, do forthwith cease and desist from representing, directly or by implication, by marking, branding, labeling, tagging, or in any other manner contrary to fact, that such merchandise was manufactured for the Armed Forces of the United States or in accordance with specifications of said Armed Forces.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6217, October 28, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 28, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9235; Filed, Nov. 22, 1954; 8:47 a. m.]

[1] Filed as part of the original document.

[Docket 6220]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

I. SPIEWAK & SONS, INC., ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1330 *Specifications or standards conformance.* In the offering for sale, sale, or distribution of wearing apparel in commerce, or of any other garments, representing, directly or by implication, by marking, branding, labeling, tagging, or in any other manner contrary to fact, that such merchandise was manufactured for the Armed Forces of the United States or in accordance with specifications of said Armed Forces; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719; 15 U. S. C. 45) [Cease and desist order, I. Spiewak & Sons, Inc., et al., New York, N. Y., Docket 6220, Oct. 19, 1954]

In the Matter of I. Spiewak & Sons, Inc., a Corporation, and Philip Spiewak, Gerald Spiewak, and Robert Spiewak, Individually and as Officers of Said Corporation

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission which charged respondents with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of the Federal Trade Commission Act, and upon a stipulation for consent order, entered into by them, which provided that the answer theretofore filed by them was withdrawn and expressly waived a hearing before a hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, and the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner or the Commission to which respondents might be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By the terms of said stipulation, respondents consented to the entry of an order to cease and desist in the form therein provided for, to have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and respondents waived any and all right, power, or privilege to challenge or contest the validity of said order, it being further provided by said stipulation that the signing thereof was for settlement purposes only and did not constitute an

admission of violation by respondents, except that respondents admitted all the jurisdictional allegations of the complaint.

Thereafter, it appearing that said stipulation, which had been submitted to said hearing examiner, theretofore duly designated by the Commission, for his consideration in accordance with Rule V of the Commission's rules of practice, provided for an appropriate disposition of the proceeding, said stipulation was accepted and ordered filed as part of the record in the matter by said examiner, who, after considering the complaint and said stipulation, found that the proceeding was in the interest of the public, and made his initial decision [1] setting forth the aforesaid matters, his jurisdictional findings,[1] and his order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on October 19, 1954.

Said order is as follows:

It is ordered, That respondents I. Spiewak & Sons, Inc., a corporation, and Philip Spiewak, Gerald Spiewak, and Robert Spiewak, individually and as officers of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in the offering for sale, sale or distribution of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, or of any other garments, do forthwith cease and desist from representing, directly or by implication, by marking, branding, labeling, tagging, or in any other manner contrary to fact, that such merchandise was manufactured for the Armed Forces of the United States or in accordance with specifications of said Armed Forces.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6220, October 19, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 19, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9226; Filed, Nov. 22, 1954; 8:45 a. m.]

[1] Filed as part of the original document.

[Docket 6223]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

LAFAYETTE FOODS, INC.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment or acceptance of commission, brokerage or other compensation under 2 (c): § 3.820 *Direct buyers.* In connection with the purchase of frozen foods or other commodities in commerce, receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of frozen foods or other commodities made for its own account, or while acting for or in behalf of a buyer as an intermediate agent, or subject to the direct or indirect control of such buyer; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, Lafayette Foods, Inc., Lafayette, Ind., Docket 6223, Oct. 28, 1954]

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, which charged respondent with having violated subsection (c) of section 2 of the Clayton Act as amended, by receiving and accepting from sellers, commissions, brokerage fees or other compensation, or allowances or discounts in lieu thereof, on purchases of frozen foods for its own account; and upon a stipulation, following the filing of respondent's answer, entered into by respondent and counsel supporting the complaint.

Said stipulation provided that respondent admitted all the jurisdictional allegations of the complaint and agreed that the order set forth in said stipulation should have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusion thereon; specifically waived any and all right, power, or privilege to challenge or contest the validity of the order entered in accordance therewith; and provided, among other things, that all the parties requested that the answer of respondent be withdrawn, and that they waived a hearing before a hearing examiner of the Commission, the making of findings of fact or conclusions of law, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner or the Commission to which the respondent might be entitled under the Clayton Act, as amended, or the rules of practice of the Commission.

All parties further agreed that the stipulation, together with the complaint, should constitute the entire record in the matter; that the order to be set forth might be entered in disposition of the proceeding without further notice; that the complaint might be used in construing the terms of said order which might be altered, modified, or set aside in the manner provided by the statute for the orders of the Commission; and that the signing of the stipulation and consent by respondent to the entry of such order were for settlement purposes only and did not constitute an admission by respondent that it had violated the law as alleged in the complaint.

Thereafter said examiner made his initial decision in which he set forth the aforesaid matters and the granting of the request that the answer of the respondent be withdrawn; his finding that the proceeding was in the public interest; and his order, in conformity with the terms of the stipulation, to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision,[1] including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on October 28, 1954.

Said order is as follows:

It is ordered, That respondent Lafayette Foods, Inc., a corporation, its officers, and its respective representatives, agents, or employees, directly or indirectly, or through any corporate or other device, in connection with the purchase of frozen foods or other commodities in commerce as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of frozen foods or other commodities made for its own account, or while acting for or in behalf of a buyer as an intermediate agent, or subject to the direct or indirect control of such buyer.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6223, October 28, 1954, which announced and decreed fruitition of said initial decision, report of compliance was required as follows:

It is ordered, That respondent Lafayette Foods, Inc., a corporation shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: October 28, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-9236; Filed, Nov. 22, 1954; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases and Other Operations

[1954 C. C. C. Grain Price Support Bulletin 1, Supp. 2, Amdt. 3, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1954—CROP WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM

SUPPORT RATES

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 19 F. R. 1627, 2562, 3993, 4256, 4399, 5079, 5591 and 5593, and containing the specific requirements for the 1954-Crop Wheat Price Support Program are hereby amended as follows:

Section 421.438 (d) (3) (iii) is amended by adding a footnote (3) at the bottom of the table to provide protein premiums on hard white wheat of the varieties Baart and Blue-Stem stored in Lincoln County, Wyoming, so that the amended subdivision reads as follows:

§ 421.438 *Determination of support rates.* * * *

(d) *Support rates.* * * *

(3) *Premiums and discounts for classification, grade and protein content.* * * *

(iii) Protein premiums:

Protein content (percent)	Wheat stored in the States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and designated counties in Montana, based on Portland		All other States including designated counties in Montana, based on Minneapolis or Omaha	
	Hard Red Spring, Hard Red Winter	Hard White Wheat of the varieties Baart and Blue-Stem [3]	Hard Red Spring	Hard Red Winter
	Cents per bushel	*Cents per bushel*	*Cents per bushel*	*Cents per bushel*
10.0–10.9	0	1	0	0
11.0–11.9	1	2	0	0
12.0–12.9	2	3	0	0
13.0–13.9	3	4	1	1
14.0–14.4	4	4½	2	1½
14.5–14.9	5	5	3½	2
15.0–15.4	6	5½	5	2½
15.5–15.9	7	6	6½	3
16.0–16.4	8	6½	8	3½
16.5–16.9	9½	7	9½	4
17.0–17.4	11	7½	11	4½
Over 17.4	(1)	(2)	(1)	(2)

[1] 1½ cents for each ½ percent of protein over 17.4 percent.
[2] ½ cent for each ½ percent of protein over 17.4 percent.
[3] Premiums in this column also apply to wheat stored in Lincoln County, Wyoming.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C., 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c, 7 U. S. C., 1441, 1421)

Issued this 17th day of November 1954.

[SEAL] J. A. MCCONNELL,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 54-9246; Filed, Nov. 22, 1954; 8:49 a. m.]

[1954 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 4, Grain Sorghums]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1954—CROP GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PROGRAM

SUPPORT RATES

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 19 F. R. 2117, 2203, 2561, 3467, and 4555, and containing the specific requirements for the 1954-Crop Grain Sorghums Price Support Program are hereby amended as follows:

1. Section 421.533 (a) (1) is amended by adding the following to the list of terminal markets and basic support rates per 100 pounds:

Port Arthur, Texas	$2.88

2. Section 421.533 (a) (5) is amended to provide a deduction from the terminal rate for grain sorghums received by truck at Port Arthur, Texas so that the amended subparagraph reads as follows:

§ 421.533 *Support rates.* * * *

(a) *Basic support rates at designated terminal markets.* * * *

(5) For grain sorghums received by truck and stored at any designated terminal market, the support rate shall be determined by making a deduction from the terminal rate as follows:

Terminal market:	*Amount of deduction (cents per 100 pounds)*
Los Angeles, Calif., San Francisco, Calif	22
Omaha, Nebr., Sioux City, Iowa, Kansas City, Mo., St. Louis, Mo.	23
Corpus Christi, Tex., Galveston, Tex., Houston, Tex., Port Arthur, Tex., New Orleans, La., Memphis, Tenn.	25

3. Section 421.533 (c) (1) is amended by adding the following to the list of basic county support rates:

VIRGINIA

County	*Rate per cwt.*
All counties	$2.45

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U. S. C. 714; 7 U. S. C. 1447, 1421)

Issued this 17th day of November 1954.

[SEAL] J. A. MCCONNELL,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 54-9245; Filed, Nov. 22, 1954; 8:49 a. m.]

PART 464—TOBACCO

SUBPART—1954 TOBACCO LOAN PROGRAM

SCHEDULES OF RATES FOR CIGAR FILLER AND BINDER TOBACCO

The tobacco loan program formulated by Commodity Credit Corporation and Commodity Stabilization Service, published June 17, 1954 (19 F. R. 3542), is supplemented by adding the following sections containing schedules of advance rates, by grades, for the 1954 crop of types 42, 43, 44, 51, 52, 53, 54, and 55 tobacco:

Sec.
464.625 1954 crop; Ohio Filler tobacco, Types 42, 43, and 44.
464.626 1954 crop; Connecticut Valley broadleaf tobacco, Type 51.
464.627 1954 crop; Connecticut Valley Havana seed tobacco, Type 52.
464.628 1954 crop; New York and Pennsylvania Havana seed tobacco, Type 53.
464.629 1954 crop; Southern Wisconsin tobacco, Type 54.
464.630 1954 crop; Northern Wisconsin tobacco, Type 55.

AUTHORITY: §§ 464.625 to 464.630 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, as amended, 1054; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421.

§ 464.625 *1954 crop; Ohio filler tobacco, Types 42, 43 and 44, advance schedule.*[1]

[Dollars per hundred pounds, farm sales weight]

Grade	*Advance rate*
Fillers (farm wrappers):	
C1MB	38
C1M	33
C2M	31
C3M	28
C4M	26
Crop-run (stripped together):	
X1	27
X2	24
X3	22
X4	19
X5	17
Farm fillers:	
Y1	18
Y2	16
Y3	15

[1] The Cooperative Association through which price support is made available is authorized to deduct from the amount paid the grower fifty cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded W (doubtful keeping order), U (unsound), or N (nondescript).

§ 464.626 *1954 crop; Connecticut Valley broadleaf tobacco, Type 51, advance schedule.*[2]

UNSORTED

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1M	68
B2M	66
B3M	62
B4M	58
B5M	52
B6M	46
B7M	41
Binder pickers:	
R1	35
R2	30
R3	23
Non-binders:	
X1	22
X2	20
X3	18
X1DAM	20
X2DAM	18
X3DAM	16

§ 464.627 *1954 crop; Connecticut Valley Havana seed tobacco, Type 52, advance schedule.*[2]

UNSORTED

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1M	65
B2M	63
B3M	59
B4M	54
B5M	49
B6M	44
B7M	39
Binder pickers:	
R1	33
R2	27
R3	23
Non-binders:	
X1	22
X2	20
X3	18
X1DAM	20
X2DAM	18
X3DAM	16

§ 464.628 *1954 crop; New York and Pennsylvania Havana seed tobacco, Type 53, advance schedule.*[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1M	56
B2M	52
B3M	48
B4M	44
B5M	41
B6M	38
B7M	35
Binder pickers:	
R1	30
R2	27
R3	25
Strippers:	
C1	24
C2	22
C3	20
Crop-run:	
X1	23
X2	21
X3	19
X4	17
X5	16
Farm fillers:	
Y1	20
Y2	18
Y3	16

[1] See footnote on p. 7537.

[2] The Cooperative Association through which price support is made available is authorized to deduct from the amount paid the grower not more than the larger of $1.00 per hundred pounds or $10.00 per consignment to apply against receiving and overhead costs. The advance rate on any lot of tobacco graded B1M through B7M and marked with the special factor "Moist" or "Damp" will be supported at the advance rate minus $9.00 or $12.00, respectively. Grades B1M through R3 containing damaged leaves will be marked with the special factor symbol D followed by the percentage of damaged leaves. The weight of the damaged leaves will be deducted and the advance will be made only on the weight of sound or undamaged tobacco. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded W (doubtful keeping order), U (unsound), or N (nondescript).

§ 464.629 *1954 crop; Southern Wisconsin Tobacco, Type 54, advance schedule.*[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1M	57
B2M	53
B3M	49
B4M	45
B5M	41
B6M	38
B7M	34
Binder pickers:	
R1	30
R2	27
R3	25
Strippers:	
C1	25
C2	24
C3	22
Crop-run:	
X1	24
X2	23
X3	22
X4	19
X5	16
Farm fillers:	
Y1	21
Y2	18
Y3	15

§ 464.630 *1954 crop; Northern Wisconsin tobacco Type 55, advance schedule.*[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1M	62
B2M	58
B3M	54
B4M	49
B5M	45
B6M	40
B7M	36
Binder pickers:	
R1	32
R2	29
R3	26
Strippers:	
C1	24
C2	23
C3	20
Crop-run:	
X1	23
X2	22
X3	21
X4	17
X5	15
Farm Fillers:	
Y1	20
Y2	18
Y3	15

Issued this 17th day of November 1954.

[SEAL] J. A. McCONNELL,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 54-9244; Filed, Nov. 22, 1954; 8:48 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.237]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Parts 41 and 42, Chapter I, Title 22 of the Code of Federal Regulations, are hereby amended in the following respects:

1. Paragraph (b) *Application procedure* of § 41.20 *Nonresident aliens' border-crossing identification cards* is amended to read as follows:

(b) *Application procedure.* An application for a nonresident alien's border-crossing identification card shall be made on Form I–190 at a United States consular office in Canada or Mexico. The applicant shall appear in person, shall execute the application in triplicate under oath or by affirmation before the consular officer, and shall be fingerprinted in accordance with the provisions of § 41.19. Four identical photographs of the alien, as described in § 41.9 (d) shall be submitted with the application. One of such photographs shall be attached to each copy of the application form and to the identification card which is issued to the applicant. The photograph requirement may, in the discretion of the consular officer, be waived in the case of an alien under fourteen years of age at the time of issuance of the card. The original of application Form I–190, duly executed, shall be attached to the identification card issued to the alien for delivery to the immigration officer at the time of application for admission into the United States.

2. Paragraph (b) of § 41.110 *Representatives of foreign press, radio, film, or other information media* is amended to read as follows:

(b) An alien who will be engaged in the United States in news gathering activities between the United States and the country of which he is a national shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (I) of the act, notwithstanding the fact that such alien may also be classifiable as a nonimmigrant under the provisions of section 101 (a) (15) (E) of the act.

3. Paragraph (b) *Termination of derivative registration* of § 42.21 *Aliens included in single registration* is amended to read as follows:

(b) *Termination of derivative registration.* The privilege of derivative registration accorded a spouse or child un-

der the provisions of paragraph (a) of this section, whose name has not been previously recorded on a waiting list, shall terminate only upon the occurrence of any one of the conditions specified in § 42.23 for the removal of names from a quota-waiting list.

4. Paragraph (i) of § 42.23 *Removal of names of registrants from quota-waiting list* is revoked.

5. Paragraph (c) *Attaching supporting documents* of § 42.41 *Procedure in issuing immigrant visa* is revoked, and paragraphs (d), (e) and (f) of § 42.41 are redesignated paragraphs (c), (d) and (e), respectively.

6. Section 42.42 *Classes of aliens ineligible to receive immigrant visas* is amended to read as follows:

§ 42.42 *Classes of aliens ineligible to receive immigrant visas.* (a) The following implementation of section 212 of the act shall govern the issuance or refusal of immigrant visas in pertinent cases:

(1) *Feeble-mindedness.* [Reserved.]

(2) *Insanity.* [Reserved.]

(3) *One or more attacks of insanity.* [Reserved.]

(4) *Psychopathic personality, epilepsy, or mental defect.* [Reserved.]

(5) *Narcotic drug addicts or chronic alcoholics.* [Reserved.]

(6) *Tuberculosis, leprosy, or dangerous contagious disease.* A determination of ineligibility to receive an immigrant visa under the provisions of sections 212 (a) (1) to (6), inclusive, of the act, shall be based upon the finding of a competent medical examiner as referred to in § 42.37: *Provided*, That in the case of an alien who applies for an immigrant visa at a consular office where no medical officer of the United States Public Health Service has been assigned or detailed, and the consular officer knows or has reason to believe that such alien is a drug addict, a chronic alcoholic, or is afflicted with psychopathic personality by reason of sexual deviation, a finding of ineligibility to receive an immigrant visa under the provisions of section 212 (a) (4) or (5) of the act may be based on facts or circumstances other than the finding of an examining physician.

(7) *Physical defect, disease or disability affecting alien's ability to earn a living.* An alien within the purview of section 212 (a) (7) of the act may be issued an immigrant visa, if otherwise qualified therefor, upon receipt of notice by the consular officer from the Department of the giving of a bond or undertaking, as provided in section 221 (g) of the act.

(8) *Paupers, professional beggars, or vagrants.* [Reserved.]

(9) *Crime involving moral turpitude.* (i) An alien shall not be ineligible to receive a visa under the provisions of section 212 (a) (9) of the act (*a*) solely by reason of the conviction of a single offense which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year, and for which the penalty actually imposed was imprisonment not to exceed six months or a fine not to exceed $500, or both; or (*b*) solely by reason of the admission of the commission of a single offense or the commission of acts constituting the essential elements of a single offense which, if committed in the United States, would be a misdemeanor punishable by imprisonment not to exceed one year.

(ii) The term "purely political offense", as used in sections 212 (a) (9) and (10) of the act, shall include offenses which, the evidence presented to the consular officer clearly establishes, were involved in convictions obviously based on trumped-up charges or predicated upon repressive measures against racial, religious, or political minorities. The admission by an immigrant that he has committed acts which would have been punishable under the laws or decrees of a foreign country shall be considered an admission of the commission of a purely political offense within the meaning of section 212 (a) (9) of the act if the evidence presented to the consular officer clearly establishes that such laws or decrees were predicated upon the repression of racial, religious, or political minorities. The mere fact that an alien is or was a member of a racial, religious, or political minority shall not be considered as sufficient in itself to warrant a conclusion that the crime of which he was convicted was a purely political offense.

(10) *Conviction of two or more offenses.* [Reserved.]

(11) *Polygamy.* Aliens who are members of religious organizations which tolerate polygamy are not ineligible to receive immigrant visas under the provisions of section 212 (a) (11) of the act, unless such aliens themselves are polygamists, or unless they practice or advocate the practice of polygamy.

(12) *Prostitutes.* The fact that an immigrant may have ceased to engage in prostitution shall not remove the immigrant's ineligibility to receive a visa under the provisions of section 212 (a) (12) of the act.

(13) *Immoral sexual act.* [Reserved.]

(14) *Skilled or unskilled laborers*—(i) *Certification by Secretary of Labor required.* No immigrant shall be considered ineligible to receive a visa under the provisions of section 212 (a) (14) of the act, even if he is migrating to the United States under a contract or other prearrangement of employment of any kind in the United States, until the Secretary of Labor shall have made the certification to the Secretary of State and the Attorney General as provided in clauses (A) or (B) of section 212 (a) (14) of the act concerning the availability of such labor in the locality of the alien's destination, or the effect of the immigration of such foreign labor on conditions of workers in the United States. The existence or the cancellation of such a certification by the Secretary of Labor shall be recognized by the consular officer only upon the basis of an official notification from the Department.

(ii) *Prearranged employment immaterial to ineligibility.* When the Secretary of Labor makes the certification referred to in subdivision (i) of this subparagraph, with respect to a particular occupation, the provisions of section 212 (a) (14) of the act shall apply to an immigrant who is seeking to enter the United States for the purpose of performing skilled or unskilled labor, even if such immigrant has no offer, promise, contract of employment, or any other form of pre-arranged employment in such occupation, unless such alien falls within one of the exempt categories specified in subdivision (iii) of this subparagraph.

(iii) *Exemptions.* Notwithstanding the fact that a consular officer has been officially notified of a determination and certification by the Secretary of Labor, as referred to in subdivision (i) of this subparagraph, the provisions of section 212 (a) (14) of the act shall have no application to the following classes of immigrants:

(*a*) Parents, spouses, or sons and daughters regardless of age or marital status, of United States citizens;

(*b*) Parents, spouses, or children of aliens lawfully admitted to the United States for permanent residence;

(*c*) Brothers or sisters of United States citizens;

(*d*) Immigrants whose services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants, and to be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States;

(*e*) Aliens classifiable as nonquota immigrants under the provisions of sections 101 (a) (27) (B), (F), and (G) of the act.

(15) *Public charges.* (i) Any conclusion that an immigrant is ineligible to receive a visa under the provisions of section 212 (a) (15) of the act shall be predicated upon the existence of facts or circumstances which indicate a reasonable probability that the immigrant will become a charge upon the public after entry into the United States.

(ii) A petition approved under the provisions of section 205 of the act shall have no bearing on the question of whether the beneficiary thereof will become a public charge after his arrival in the United States.

(iii) An alien within the purview of section 212 (a) (15) of the act may be issued an immigrant visa, if otherwise qualified therefor, upon receipt of notice by the consular officer from the Department of the giving of a bond or undertaking, as provided in section 221 (g) of the act.

(16) *Aliens excluded and deported.* An alien who was excluded and deported from the United States within the meaning of section 212 (a) (16) of the act shall be required to obtain permission from the Attorney General to reapply for admission if he applies for a visa within one year from the date of his deportation.

(17) *Aliens arrested and deported or removed from the United States.* (i) An alien who was arrested and deported from the United States, or who was removed from the United States within the meaning of section 212 (a) (17) of the act shall be required to obtain permission from the Attorney General to reapply for admission into the United States,

regardless of the period of time which may have elapsed since his deportation or removal.

(ii) No alien who is required to obtain permission from the Attorney General to reapply for admission, as provided in sections 212 (a) (16) and (17) of the act, shall be considered eligible to receive an immigrant visa until such alien shall have obtained the necessary permission to reapply for admission, and shall have been found to be otherwise eligible to receive an immigrant visa under the act and the regulations contained in this part.

(18) *Stowaways.* [Reserved.]

(19) *Fraud and misrepresentation.* (i) An alien (*a*) who seeks to procure, or has sought to procure, or has procured a visa or other documentation by fraud, or by willfully misrepresenting a material fact, for the purpose of gaining admission into the United States, regardless of whether such fraud or misrepresentation occurred before or after December 24, 1952, or (*b*) who entered or who seeks to enter the United States on or after December 24, 1952 by fraud, or by willfully misrepresenting a material fact, shall be ineligible to receive an immigrant visa under the provisions of section 212 (a) (19) of the act: *Provided,* That the provisions of this subdivision shall not be applicable in the case of a *bona fide* refugee if such fraud or misrepresentation was committed in connection with the alien's entry into, or sojourn in, a foreign country and consisted of obtaining travel documents or of misrepresenting his place of birth, and the refugee was in fear of being repatriated to his former homeland if he had disclosed the facts in his case: *Provided further,* That such fraud or misrepresentation was not committed for the purpose of evading the quota restrictions of the United States immigration laws, or investigation of the alien's record at the place of his former residence or elsewhere in connection with an application for a United States visa. The fact that an alien may be or may have been a bona fide refugee shall not be considered as sufficient in itself to remove the alien from any excludable class.

(ii) Subject to the conditions stated in subdivision (i) of this subparagraph, an alien who, upon review of his case, is found by the consular officer to have made a willful misrepresentation within the meaning of section 10 of the Displaced Persons Act of 1948, as amended (62 Stat. 1013, 64 Stat. 225; 50 App. U. S. C. 1950), for the purpose of gaining admission into the United States as an eligible displaced person, or to have made a material misrepresentation within the meaning of section 11 (e) of the Refugee Relief Act of 1953, as amended (67 Stat. 405, 8 U. S. C. 1182) for the purpose of gaining admission into the United States as an alien eligible thereunder, shall be considered ineligible to receive an immigrant visa under the provisions of section 212 (a) (19) of the act.

(20) *Immigrant documentary requirements.* [Reserved.]

(21) *Noncompliance with section 203 of the act.* [Reserved.]

(22) *Ineligibility to citizenship.* [Reserved.]

(23) *Illicit traffic in narcotic drugs.* [Reserved.]

(24) *Aliens arriving in foreign contiguous territory or adjacent islands on nonsignatory or noncomplying transportation lines.* The provisions of section 212 (a) (24) of the act shall not be applicable to the following classes of immigrants:

(i) Aliens who are described in section 101 (a) (27) (B) of the act;

(ii) Aliens who are native-born citizens of countries enumerated in section 101 (a) (27) (C) of the act;

(iii) Aliens who, prior to December 24, 1952, arrived in one of the adjacent islands from which they are seeking to enter the United States;

(iv) Aliens who are natives of adjacent islands or foreign contiguous territory and who are seeking to enter the United States directly from an adjacent island or from foreign contiguous territory;

(v) Aliens who proceeded from one adjacent island or foreign contiguous territory to another by signatory carrier and who are seeking to enter the United States from the last island or territory, regardless of the method by which they first entered an adjacent island or foreign contiguous territory;

(vi) Aliens who proceeded from the United States by nonsignatory carrier to adjacent islands or foreign contiguous territory from which they seek to reenter the United States: *Provided,* That such aliens, as of the time of their last entry into the United States, would not have been ineligible to receive an immigrant visa under the provisions of section 212 (a) (24) of the act.

(25) *Illiterates.* [Reserved.]

(26) *Nonimmigrant documentary requirements.* [Reserved.]

(27) *Activities prejudicial to the public interest, or endangering the welfare, safety or security of the United States.* [Reserved.]

(28) *Other subversive classes*—(i) *Members or affiliates.* The provisions of section 212 (a) (28) of the act shall be considered to relate to the ineligibility of aliens to receive visas because of their present or former voluntary membership in, or affiliation with, the classes described therein, including voluntary membership in, or affiliation with, the proscribed parties, organization, and groups as specified therein, regardless of the purpose of such aliens in coming to the United States.

(*a*) The term "affiliate", as used in section 212 (a) (28) of the act with reference to an organization, means an organization substantially directed, dominated, or controlled by one of the parties within the statutory proscription, which is or was used or operated by such party to help maintain its control over the country, or to help disseminate its economic and governmental doctrines or ideology;

(*b*) Service, whether voluntary or not, in the armed forces of any country shall not be regarded, of itself, as constituting or establishing an alien's membership in, or affiliation with, any proscribed party or organization, and shall not, of itself, constitute a ground of ineligibility to receive a visa;

(*c*) Voluntary service in a political capacity, such as a political commissar with the armed forces of any country, shall constitute affiliation with the political party or organization in power at the time of such service;

(*d*) Membership or affiliation, whether voluntary or not, which ended before an alien reached his sixteenth birthday shall not constitute a ground of ineligibility to receive a visa. If an alien continues or continued his membership or affiliation beyond his sixteenth birthday, the question whether his membership or affiliation after his sixteenth birthday is or was voluntary shall be determined as in the case of any other alien. In that connection, the facts relating to his activities only after his sixteenth birthday may be considered in determining whether the continuation of his membership or affiliation is or was voluntary;

(*e*) The term "operation of law", as used in section 212 (a) (28) (I) of the act, shall include any case wherein the alien without his acquiescence automatically becomes or became a member or affiliate of a proscribed party or organization by official act, proclamation, order, edict, or decree.

(ii) *Totalitarianism.* In accordance with the definition of "totalitarian party" contained in section 101 (a) (37) of the act, former or present voluntary members of, or aliens who were, or are, voluntarily affiliated with a non-communist party, organization, or group, or of any section, subsidiary, branch, affiliate or subdivision thereof, which during the time of its existence did not or does not advocate the establishment in the United States of a totalitarian dictatorship, shall not be considered ineligible under the provisions of section 212 (a) (28) of the act to receive visas, unless such aliens are known or believed by the consular officer to advocate, or to have advocated, personally, the establishment in the United States of a totalitarian dictatorship or totalitarianism, as defined in the act. Aliens who are, or have been, voluntary members of, or voluntarily affiliated with, the Communist party, or any of its sections, subsidiaries, branches, affiliates, or subdivisions, in any country, shall be considered, as specifically declared by the act, to be ineligible to receive visas, except as provided in subdivision (iii) of this subparagraph. If any other party is found to be a "totalitarian party", as defined in section 101 (a) (37) of the act, former or present voluntary membership in or affiliation with such party, or any of its sections, subsidiaries, branches, affiliates, or subdivisions, shall render an alien ineligible to receive a visa, except as provided in subdivision (iii) of this subparagraph.

(iii) *Defectors.* The term "defector" includes an alien who was a voluntary member of, or was voluntarily affiliated with, a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, which exists, as well as a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, which no longer exists but which did exist within the period of the last 5 years prior to the date of the application for a visa. The five-year period of defection

required by the provisions of section 212 (a) (28) (I) (ii) of the act shall be considered as having begun to run from the established date of an alien's cessation of voluntary membership or affiliation or from the date such party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, ceased or ceases to exist. The words "actively opposed", as used in section 212 (a) (28) (I) (ii) of the act, shall be considered as embracing speeches, writings, and other overt or covert activities, during a period of at least 5 years prior to the application for a visa, in opposition to the doctrine, program, principles, and ideology of the party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, of which the alien was formerly a member or affiliate. An alien shall not be required, except in questionable circumstances, to show that he has actively opposed the doctrine, program, principles, and ideology of a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof during the time it did not exist. However, such alien shall be required to show that during the period of non-existence of the party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, he did not personally advocate the doctrine, program, principles, and ideology of such party or organization, or of the section, subsidiary, branch, or affiliate or subdivision thereof, within the meaning of the act.

(iv) *Public interest with regard to visas.* Consular officers shall maintain a coordinated and uniform interpretation and appraisal of what constitutes the public interest in issuing or refusing visas to defectors. Such coordination and uniformity shall be accomplished by a reference of the consular officer's opinion to the Secretary of State for possible consultation with the Attorney General.

(v) *War criminals.* No alien who was convicted of being a war criminal or was properly charged as such but escaped trial or punishment by departing the jurisdiction, or who was guilty of, or who advocated or acquiesced in, activities or conduct contrary to civilization and human decency on behalf of a power which was at war with the United States during World War II shall be considered as a defector under the provisions of section 212 (a) (28) (I) (ii) of the act or the regulations contained in this part.

(29) *Activities relating to espionage, sabotage, public disorder, or other subversive activity.* An alien who was convicted of being a war criminal or who was properly charged as such but who escaped trial or punishment by departing the jurisdiction, or an alien who is guilty of, or who advocated or acquiesced in, activities or conduct contrary to civilization and human decency on behalf of a power which was at war with the United States during World War II may be considered ineligible to receive a visa under the provisions of section 212 (a) (27) or (29) of the act.

(30) *Alien accompanying another alien ordered excluded and deported.* [Reserved.]

(31) *Alien contributing to illegal entry.* [Reserved.]

(b) *Failure of application to comply with act.* An immigrant's visa application shall be considered as failing to comply with the provisions of the act if:

(1) The applicant fails to furnish the information to be included in such application as required by the act and the regulations contained in this part.

(2) Such application contains a false or incorrect statement.

(3) Such application is not supported by the necessary documents required under the provisions of the act or the regulations contained in this part.

(4) The applicant refuses to be fingerprinted as required by the act.

(5) The necessary fee is not paid for such application or for the immigrant visa.

(6) The alien fails to swear to, or affirm, the application before the consular officer.

(7) The visa application otherwise fails to meet the specific requirements of the act for reasons for which the alien is responsible.

7. Section 42.47 *Validity of immigrant visa* is amended by the addition of the following paragraph (d) at the end thereof:

(d) An alien who is returning to Hawaii from a temporary visit abroad, and who (1) establishes that he entered Hawaii without an immigration visa between May 1, 1934, and July 3, 1946, inclusive, pursuant to the last sentence of section 8 (a) (1) of the act of March 24, 1934, as amended (48 Stat. 456), and that he was on the date of such entry a citizen of the Philippine Islands, or (2) establishes that he was admitted to Hawaii as a national of the United States, shall be considered classifiable as a nonquota immigrant under the provisions of section 101 (a) (27) (B) of the act, and, if otherwise qualified, shall be issued a nonquota immigrant visa limited in validity to application for admission only to Hawaii. *Provided,* That this limitation shall not apply in the case of an alien who is within a class declared to be nonquota immigrants under the provisions of section 101 (a) (27) of the act, other than subparagraph (C) thereof, and other than subparagraph (B) thereof in the case of an alien admitted to Hawaii only and subject to the restrictions prescribed in section 212 (d) (7) of the act. In any case in which a visa is limited in validity to application for admission only to Hawaii, such limitation shall be noted conspicuously on the face of the visa.

8. Subparagraph (5) of paragraph (b) *Exceptions* of § 42.36 *Passport requirement for immigrants* is amended to read as follows:

(5) An immigrant who is the parent, spouse, or child of a United States citizen;

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: November 15, 1954.

SCOTT MCLEOD,
Administrator of the Bureau of Inspection, Security, and Consular Affairs.

[F. R. Doc. 54-9232; Filed, Nov. 22, 1954; 8:47 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter J—Procurement

[CGFR 54-51]

PART 116—PROCEDURES FOR PURCHASING

PART 118—CONTRACTS

MISCELLANEOUS AMENDMENTS

The amendments to §§ 116.01-3, 116.01-4, 116.01-8, 116.01-43, 116.01-44, 116.01-46, 116.01-85, 116.01-165, 116.02-2, 118.01-15, 118.02-21, 118.02-22, and 118.02-23 are editorial in nature to clarify requirements of existing procedure.

The amendment to § 116.01-2 sets forth additional procurement term definitions.

The amendment to § 116.01-5 sets forth authority and responsibility of contracting officers.

The amendment to § 116.01-7 prescribes requirements to be met before entering into contracts.

The amendment to § 116.01-42 sets forth Federal Supply Schedule classes for which procurement by the Coast Guard is mandatory.

The amendment to § 116.01-160 authorizes the use of Standard Form 44, U. S. Government Purchase Order-Invoice-Voucher, for service station deliveries of gasoline and lubricating oils when credit cards are unavailable.

The amendment to § 116.02-47 eliminates the requirement for security classification of correspondence relating to debarred or ineligible firms or individuals and lists of such firms or individuals.

A new section designated § 118.01-19 defines the difference between contract change orders and supplemental agreements.

A new section designated § 118.04-6 sets forth administrative instructions for the Walsh-Healey Public Contracts Act.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), the following amendments are prescribed:

1. Section 116.01-2 is amended to read as follows:

§ 116.01-2 *Definition of terms*—(a) *Scope of section.* The terms defined in the following paragraphs apply to procurement procedures set forth in Parts 116, 118, and 120 of this subchapter.

(b) *Department.* The term "Department" means the Department of the Treasury, in which the Coast Guard has the status of a Bureau.

(c) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(d) *Agency head.* The term "Agency Head" means the Commandant, U. S. Coast Guard, who is responsible for the procurement policies and activities of the Coast Guard under the Armed Services Procurement Act of 1947 (Pub. Law 413, 80th Cong.; 41 U. S. C. 151–161).

(e) *Contracting officer.* The term "contracting officer" means any officer or civilian employee of the Coast Guard who has been or shall be designated a contracting officer (and whose designation has not been terminated or revoked) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or any part of such authority as hereinafter provided. The term "contracting officer" is construed to include his duly appointed successor or authorized representative acting within the limits of his authority.

(f) *Contracts.* The term "contracts" means all types of agreements and orders for the procurement of supplies or services. It includes, by way of description and without limitation, awards and preliminary notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders or task letters thereunder; letter contracts, letters of intent, and purchase orders. It also includes amendments, modifications, and supplemental agreements with respect to any of the foregoing.

(g) *Procurement.* The term "procurement" includes, by way of description and without limitation, purchasing, renting, leasing, or otherwise obtaining supplies or services.

(h) *Supplies.* The term "supplies" means all property except land or interests in land. It includes, by way of description and without limitation, public works, buildings, facilities; ships, floating equipment, and vessels of every character, type and description, together with parts and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

(i) *Source of supplies.* (1) For contracting purposes, the term "source of supplies" shall include only (i) manufacturers, (ii) construction contractors, and (iii) regular dealers in the supplies to be procured. See § 116.02–46 (a) (3) (iii) for the definition of a "regular dealer." The above descriptions shall not apply to contracts for supplies no part of which will be manufactured or furnished within the geographic limits of the continental United States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, or the District of Columbia.

(2) A manufacturer, construction contractor, or regular dealer may bid, negotiate and contract through an authorized agent: *Provided*, That the agency is disclosed, and the agent acts and contracts in the name of his principal. In this connection, see §§ 118.04–8 through 118.04–14 of this subchapter re contractors' statements of contingent or other fees.

(j) *Services.* The term "services" includes, by way of description and without limitation, personal or professional services of individuals or organizations; nonpersonal services; educational or training services; architectural or engineering services; maintenance or repair services; transportation; utility services; experimental, developmental or research work; and construction work.

2. Section 116.01–3 *General limitations upon the use of negotiation* is hereby revoked.

3. Section 116.01–4 *Certain negotiations restricted to Headquarters* is hereby revoked.

4. Section 116.01–5 is amended to read as follows:

§ 116.01–5 *Contracting officers*—(a) *General authority of contracting officers.* Properly designated contracting officers are granted all authority conferred by law, this part, directives promulgated by the Commandant in the form of circulars, memoranda, general messages, etc., and local instructions prescribed by district commanders and/or commanding officers to implement the requirements of the foregoing conveyances of authority, but only to the extent as limited therein and as that authority may be further limited in the orders designating them as contracting officers.

(1) Contracting officers are agents of the Government and must act in accordance with the law and within their prescribed duties and limited authority. The acts of a contracting officer bind the Government only when the action is authorized.

(2) Contracting officers may enter into, amend, modify, and take other action with respect to contracts provided:

(i) Approval of award has been obtained, if approval is required by these regulations, and the contract embodies the award, as approved;

(ii) The contract is written on a standard or an approved form of contract;

(iii) The contract is authorized by law and complies with the provisions of this part and current supplementary directives with respect to the use of contract clauses and does not contain any clause or involve matters in conflict with the established policy of higher authority; and

(iv) Compliance has been effected with all other requirements of law, these regulations, current supplementary directives, and local implementing instructions prescribed by district commanders and/or commanding officers.

(b) *Designation of contracting officers.* See §§ 116.01–23 to 116.01–24.

(c) *General responsibility of contracting officers*—(1) Contracting officers are primarily responsible for the execution and administration of contracts, to safeguard the interests of the United States in contractual relationships, and to determine the facts under contracts.

(2) Contracting officers shall personally sign all contracts and modifications entered into by them. This authority cannot be delegated to others. The signing of contractual documents will not be accomplished by facsimile stamps or by proxy.

(3) Contracting officers are responsible under law and regulations for their acts as contracting officers.

(4) Contracting officers shall be bound in all their actions to exercise reasonable care, skill, and judgment.

(5) Contracting officers must assure themselves that the contract is authorized by law, that funds are available, and of their authority to subject the Government or its property to any risk.

(6) Contracting officers are responsible for maintaining constant cognizance with respect to compliance on the part of the contractor.

(7) Contracting officers are responsible for the legal, technical, and administrative sufficiency of the contracts they make. They should not hesitate to secure legal and technical advice within the Coast Guard.

(8) Contracting officers are responsible for performing or having performed any legal or administrative actions necessary to properly assure the satisfactory performance of their contracts.

(9) Contracting officers are responsible for knowing the scope and limitations of their authority.

(d) *Contracting officers' representatives.* See § 116.01–25.

5. Section 116.01–7 is amended to read as follows:

§ 116.01–7 *Contract requirements*—(a) *General requirements to be met before entering into contracts.* Irrespective of whether procurement is to be effected by formal advertising or by negotiation, a contract may be entered into by a contracting officer only if:

(1) All applicable requirements of law, of this part, of current directives promulgated by the Commandant in the form of circulars, memoranda, general messages, etc., and of local instructions prescribed by district commanders and/or commanding officers to implement the foregoing requirements have been met.

(2) Such business clearances or approvals as are prescribed by this part and by applicable supplementary instructions have been obtained.

(3) The contract is written on a standard or an approved form of contract.

(4) The contract does not contain any unauthorized clauses or involve any matter which is inconsistent or in conflict with the established policy of higher authority.

(b) *Approval of work projects.* The Commandant's approval of the project or work is required prior to the execution of a contract under the following conditions:

(1) When the proposed contract involves major overhaul of aircraft and/or aircraft engines.

(2) Under the conditions prescribed by current Coast Guard engineering directives.

(3) A change in, or establishment of, an aid to navigation.

(4) New construction or special fund projects.

(c) *Restrictions on specific contracts for supplies and services.* Contracting

officers are authorized to execute specific contracts for supplies and services required by their units within the monetary limitations set forth in § 116.01–6:

(1) When allotted funds are available to defray the cost of procurement.

(2) When the items are not readily available from Coast Guard, Navy, or other Government sources of supply.

(3) When the items are not prohibited for the use intended.

(4) When the items are not in excess of authorized allowances.

(d) *Term or open end contracts.* See §§ 118.01–6, 118.01–7 (b), 118.01–10, and 118.01–11 of this subchapter.

6. Section 116.01–8 *Referral to Headquarters* is hereby revoked.

7. Section 116.01–42 is amended by revising paragraphs (a) and (c) and adding a new paragraph (g) to read as follows:

§ 116.01–42 *Federal supply schedule contracts*—(a) *General.* The Federal Supply Service, General Services Administration, enters into open end contracts on a national, zone, regional, or other area basis for many classes of supplies and services in common use by Federal agencies which normally do not lend themselves to definite quantity consolidated buying or to distribution from General Services Administration stores stock. The use of certain of these contracts (known as Federal Supply Schedule contracts) by the Coast Guard is mandatory (see paragraph (c) of this section). Federal Supply Schedule contracts provide that for a definite period, the contractor will be obligated to deliver all mandatory items that may be ordered thereunder, subject to any stated minimum and maximum amounts of any order. The General Services Administration is responsible for inspection at the factory. The Coast Guard is responsible for inspection upon receipt, shipment in the case of f. o. b. origin contracts, and payment or for taking appropriate action if the contractor defaults (see § 116.01–12). Federal Supply Schedule contracts are summarized on "Federal Supply Schedules" which are published in catalog style and list, under major commodity classifications, the supplies or services to be purchased from the contractors named therein.

* * * * *

(c) *Mandatory use.* When supplies or services required are not available from designated Coast Guard or Navy supply support activities, procurement of items available on Federal Supply Service contracts will be effected by placing orders under such contracts to the extent required by the mandatory use conditions of related Federal Supply Schedule Check Lists. Such mandatory use conditions extend not only to items listed in such schedules, but also require that orders for items similar in end use and purpose, but not identical, to items listed in such schedules will be filled by ordering similar schedule items (see paragraph (e) (3) of this section). However, the mandatory use conditions of such schedules have no application when items similar to the required items are not included in such schedules, or when the items listed in such schedules are not mandatory. Federal Supply Service standard stock classes of supplies and services, the procurement of which generally is mandatory under Federal Supply Schedule contracts, include, but are not limited to the following:

Federal Supply Service Class and Material	
2, 4, 42	Tear and nauseating gas arms, cartridges, grenades, and hand irons.
4	Explosives and blasting accessories.
7, 14	Gasoline and lubricating oil, service station deliveries.
7, 14	Gasoline, fuel oil, and kerosene, provided they are not included in Navy contracts applicable to the Coast Guard.
8	Brake linings, clutch facings, oil filters, tire chains, etc.
8	Tires and tubes (other than aircraft).
17	Electric lamps (includes Alaska and points outside continental United States).
17	Household and quarters lamps.
17	Spark plugs.
18	Purchase, maintenance, repair, and rental of microphotographic equipment and supplies.
26	Household and quarters furniture.
26	Office furniture.
27	Floor coverings.
28	Marginally punched continuous forms.
35	Books, periodicals, and law books.
53	Drafting room and office supplies.
54	Offset duplicating blankets and plates.
54, 104	Typewriters and other office equipment (see § 116.01–155).
66	Vacuum cleaners and repair parts, accessories, and attachments.
83	Aircraft tires (casings and tubes).
103	Recording and transcription.

Additional items are mandatory for Washington, D. C., and the contiguous area. Many variations and limitations exist among classes and the current Federal Supply Schedule Check List, and applicable schedules must be reviewed carefully by the procurement officer for detailed coverage applicable only to individual classes and localities.

* * * * *

(g) *Defective supplies or services.* In accordance with § 116.01–12, a written report shall be made to the General Services Administration regional office executing the contract whenever supplies or services are received in an unsatisfactory condition or manner, or equipment is found to be defective or inoperative upon installation. Full details of the transaction should be included in the report, a copy of which shall be furnished the Commandant (FS).

8. Section 116.01–43 is amended by revising paragraph (b) (1) (v) to read as follows:

§ 116.01–43 *Federal supply service stores depots.* * * *

(b) *Mandatory procurement.* * * *

(1) *Exceptions.* * * *

(v) Purchases in Alaska of items under Federal Supply Classification Group 89, Subsistence.

9. Section 116.01–44 *Federal Prison Industries, Inc.* is amended by revising the term "Purchase orders" to read "Delivery orders" at the beginning of the first sentence in subparagraphs (1) and (2) of paragraph (b).

10. Section 116.01–46 *Blind-made products* is amended by revising the term "Purchase orders" to read "Delivery orders" at the beginning of the first sentence in paragraph (b) (1) (i).

11. Section 116.01–85 *Statistics to be reported* is amended by revising the term "FS contracts" to read "Federal Supply Schedule contracts."

12. Section 116.01–160 *Purchase of gasoline and lubricating oil by credit cards* is amended by revising the last sentence of paragraph (a) to read as follows: "Service station deliveries may be obtained on Standard Form 44, U. S. Government Purchase Order-Invoice-Voucher, when credit cards are not available."

13. Section 116.01–165 is amended by revising paragraph (c) to read as follows:

§ 116.01–165 *Procurement of envelopes and other articles bearing penalty indicia.* * * *

(c) *Copies of delivery orders required by Post Office Department.* Field units will furnish copies of all delivery orders for articles bearing penalty indicia to the Commandant. The Commandant will accumulate copies of all Coast Guard delivery orders for penalty indicia articles, which will be transmitted at the end of each quarter to the Division of Accounting, Bureau of Comptroller, Post Office Department, Washington, D. C.

14. Section 116.02–2 is amended by adding a headnote to paragraph (a) and revising paragraph (b) to read as follows:

§ 116.02–2 *Use of formal advertising*—(a) *General.* * * *

(b) *Classified procurement.* Procurement classified as Confidential or higher shall not be effected by formal advertising, except when the Commandant has determined this method to be in the interest of the Government.

15. Section 116.02–47 is amended by revising paragraph (a) to read as follows:

§ 116.02–47 *Debarment of bidders*—(a) *General*—(1) *Scope.* This section prescribes policies and procedures relating to the debarment of bidders for any cause and ineligibility of bidders under section 1 (a) of the Walsh-Healey Public Contracts Act (41 U. S. C. 35a). It is applicable to both advertised and negotiated procurement.

(2) *Administrative and Buy American Act debarments.* When the public interests warrant the administrative debarment of a firm or individual for any of the causes listed in paragraph (e) of this section, or for violation of section 3 (a) of the Buy American Act (Pub. Law 428, 72d Cong., 47 Stat. 1520; 41 U. S. C. 10–b (b)), a detailed report shall be submitted to the Commandant (FS). The Commandant will review the evidence submitted, make the necessary debarment determination, and advise all Coast Guard contracting officers and other agencies concerned of any debarment made as a result of such determination.

16. Section 118.01–15 is amended by revising paragraph (b) to read as follows:

§ 118.01–15 *Maintenance and use of the Contract Register.* * * *

(b) At the close of each month the duplicate copy of the Contract Register shall be ruled off and signed by the contracting officer. The completed duplicate shall be forwarded to the Commandant (FS) in time to be received by the 10th of the following month. The original of the Contract Register shall be retained in the unit for the files of the contracting officer. The original need not be ruled off or signed.

17. Part 118 is amended by adding a new § 118.01–19 reading as follows:

§ 118.01–19 *Contract modification*—(a) *General.* Change orders and supplemental agreements are types of contract modifications. Regardless of the form of contract employed, the distinction as to whether a supplemental agreement or a change order is required rests upon whether the contractor is bound by existing contract to perform the proposed change or whether such change cannot be required of him without his consent and acceptance. In connection with change orders and supplemental agreements, it is a requirement that contracts can be modified only in the interests of the United States.

(b) *Change orders.* A change order is ordinarily the proper medium for effecting changes under a contract containing provisions permitting such changes under specified circumstances similar to the standard Changes Clause used in Coast Guard contracts. Such change orders are confined to changes which the contract authorized the Government to make, and since the contract authorizes such changes to be made and since the contractor has agreed that the Government can make such changes (including, under certain circumstances, an equitable adjustment in price), change orders may be issued without the consent of the contractor.

(c) *Supplemental agreements.* A supplemental agreement is the proper medium for effecting changes to a contract which require the consent of the contractor. Supplemental agreements shall be in writing, signed by both parties, and appended to the basic contract.

18. Section 118.02–21 is amended to read as follows:

§ 118.02–21 *Coding of orders, contracts, and contract bulletins*—(a) *General.* Under the provisions of the Armed Services Procurement Act of 1947, approved February 19, 1948 (62 Stat. 21) (41 U. S. C. 151–161), as implemented by instructions issued by the President, the Coast Guard is required to assemble information pertaining to (1) all procurement from small business concerns, and (2) procurement under each of the several circumstances authorizing negotiation. In order to obtain the information for statistical use, appropriate code symbols have been prescribed for use on all purchase or delivery orders, contracts, and contract bulletins pertaining to procurement (see §§ 118.02–22 and 118.02–23).

(b) *Use of code symbols.* All orders issued to commercial suppliers shall bear the applicable code symbols as to (1) Source of Procurement and (2) Circumstances Governing Procurement, in order that the information will be available to permit proper filing of reports in accordance with §§ 116.01–83 to 116.01–86 of this subchapter. When contract bulletins are issued by contracting officers, the applicable code symbols pertaining to each contract shall be shown for the information of all ordering offices.

19. Section 118.02–22 *Coding sources of procurement* is amended by revising the term "Federal Supply Service contracts" to read "Federal Supply Schedule contracts" in paragraph (c).

20. Section 118.02–23 *Coding circumstances governing procurement* is amended by revising the term "Federal Supply Service contracts" to read "Federal Supply Schedule contracts" in paragraph (c).

21. Part 118 is amended by adding a new § 118.04–6 reading as follows:

§ 118.04–6 *Walsh-Healey public contracts act*—(a) *Statutory requirement.* In accordance with the requirement of the Walsh-Healey Public Contracts Act (act of June 30, 1936, as amended; 41 U. S. C. 35–45), all contracts entered into by any Department for the manufacture or furnishing of supplies in any amount exceeding $10,000 shall incorporate by reference the representations and stipulations required by said act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, safe and sanitary working conditions, and the contractor's status as a manufacturer or regular dealer.

(b) *Applicability.* The requirement set forth in paragraph (a) of this section applies to contracts for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the geographic limits of the continental United States, Alaska, Hawaii, Puerto Rico, Virgin Islands, or the District of Columbia, and which exceed or may exceed $10,000 in amount. Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of said act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations." In addition to the interpretations stated in that document, attention is directed to an opinion of the Department of Labor that contracts which are originally $10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to said act with respect to work performed after such modification, if modification is effected by mutual agreement.

(c) *Responsibilities of contracting officers.* Whenever the Walsh-Healey Public Contracts Act is applicable, the Contracting Officer shall:

(1) Inform prospective contractors of the possible applicability of minimum wage determinations.

(2) Furnish to the Contractor a form letter (Department of Labor Form PC–12) explaining the Walsh-Healey Act.

(3) Furnish to the Contractor a poster (Department of Labor Form PC–13).

(4) Prepare and forward Standard Form 99 to the Department of Labor in accordance with § 118.01–14.

(5) Report to the Department of Labor, via the Commandant (FS), any violation of the representations or stipulations required by the Walsh-Healey Act.

(62 Stat. 21; 41 U. S. C. 151–161)

Dated: November 16, 1954.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard, Commandant.

[F. R. Doc. 54–9148; Filed, Nov. 22, 1954; 8:45 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter B—Regulations Affecting Maritime Carriers and Related Activities

[Gen. Order 77]

PART 247—OPERATORS' RESPONSIBILITIES WITH RESPECT TO GUARANTEE CLAUSE IN NEW SHIP CONSTRUCTION CONTRACTS

Part 247, Subchapter B, published in the FEDERAL REGISTER issue of July 15, 1954, at page 4360, is hereby designated General Order 77.

Dated: November 4, 1954.

By order of the Federal Maritime Board-Maritime Administration.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 54–9219; Filed, Nov. 22, 1954; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Bureau of Federal Credit Unions, Social Security Administration

[45 CFR Parts 301, 302, 310, 315, 320]

PROPOSED MISCELLANEOUS AMENDMENTS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 238, 5 U. S. C. 1003) that the regulations set forth in tentative form below are proposed to be prescribed by the Director of the Bureau of Federal Credit Unions with approval of the Commissioner of Social Security and the Secretary of Health, Education, and Welfare. The proposed regulations are designed to amend existing regulations by eliminating reference to the Federal Security Agency, by changing designation of payee on checks, drafts, and money orders representing payment of fees by Federal credit unions to the Bureau of Federal Credit Unions and by changing the formula to be used by Federal credit unions for computing transfers to the special reserve for delinquent loans.

Prior to the official adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Director of the Bureau of Federal Credit Unions, Department of Health, Education, and Welfare, Washington 25, D. C., within a period of 15 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under authority contained in section 16 (a) of the Federal Credit Union Act, as amended (48 Stat. 1221, 12 U. S. C. 1766, and sec. 2 of the act of June 29, 1948 (62 Stat. 1091).

Dated: November 9, 1954.

[SEAL] J. DEANE GANNON,
Director,
Bureau of Federal Credit Unions.

Approved:

CHARLES I. SCHOTTLAND,
Commissioner of Social Security.

Approved: November 17, 1954.

OVETA CULP HOBBY,
Secretary of Health, Education, and Welfare.

1. Section 320.6 is hereby amended by striking out the words "Federal Security Agency" and substituting in lieu thereof the words "Department of Health, Education, and Welfare". Sections 301.1 (a), 320.2, and 320.5 are hereby amended by striking out the words "Social Security Administration, Federal Security Agency". Section 301.3 is hereby amended by striking out the words "Federal Security Agency" wherever they may appear therein.

2. Sections 301.1 (b), 301.6 (c), 301.6 (d), 301.7 (e) and 310.12 (a) are hereby amended by striking out the words "Treasurer of the United States" and substituting in lieu thereof the words "Bureau of Federal Credit Unions".

3. In Part 302—Reserves, § 302.3 *Special Reserve for Delinquent Loans* paragraphs (a) and (b) are hereby amended to read as follows:

(a) The Regular Reserve of each Federal credit union shall be supplemented by a special reserve to be known as the Special Reserve for Delinquent Loans, which shall be equal to the excess of the sum of 10 percent of the unpaid balances of loans delinquent more than two months and less than six months, plus 25 percent of the unpaid balances of loans delinquent from 6 months to less than 12 months, and plus 80 percent of the unpaid balances of loans delinquent 12 months or more over the balance in the Regular Reserve. In the event it is necessary to supplement the Regular Reserve by a Special Reserve for Delinquent Loans, the transfer to the Special Reserve for Delinquent Loans shall be made as of December 31 of each year from Undivided Earnings before any distribution of dividends. The maintenance of a Special Reserve for Delinquent Loans shall not eliminate the necessity for transferring net earnings as of December 31 each year to the Regular Reserve as required by paragraph (a) of § 302.2. In the event the required transfer exceeds the balance of Undivided Earnings, only the balance of Undivided Earnings shall be transferred to the Special Reserve for Delinquent Loans.

(b) When, as of December 31 of any year, the amount in the Special Reserve for Delinquent Loans exceeds the amount required by the regulations in this part, the board of directors of the Federal credit union may authorize the transfer of the excess to Undivided Earnings.

[F. R. Doc. 54-9229; Filed, Nov. 22, 1954; 8:46 a. m.]

NOTICES

FEDERAL POWER COMMISSION

[Docket Nos. G-1705, G-1813, G-1937, G-2023, G-2057, G-2433, G-2475, G-2932, G-3159]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

NOTICE OF POSTPONEMENT OF HEARING

NOVEMBER 16, 1954.

In the matters of Panhandle Eastern Pipe Line Company, Docket Nos. G-1705, G-1937, G-2433 and G-2475; Indiana Gas & Water Company, Inc., Docket No. G-1813; Indiana Gas & Water Company, Inc., v. Panhandle Eastern Pipe Line Company, Docket No. G-2023; Missouri Public Service Company, Docket No. G-2057; City of Montgomery, Missouri, Docket No. G-2932; Town Gas Company of Illinois, Docket No. G-3159.

Upon consideration of the request, filed November 15, 1954, by Counsel for Panhandle Eastern Pipe Line Company for postponement of the hearing in the above-designated matters now scheduled for November 30, 1954;

Notice is hereby given that said hearing is postponed to 10:00 a. m., e. s. t., January 4, 1955 in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-9223; Filed, Nov. 22, 1954; 8:45 a. m.]

[Docket Nos. G-2468, G-4226, G-4227]

TENNESSEE PRODUCTION CO. AND TENNESSEE GAS TRANSMISSION CO

NOTICE OF APPLICATIONS AND ORDER DENYING REQUEST FOR SHORTENED PROCEDURE, CONSOLIDATING PROCEEDINGS, AND FIXING HEARING

In the matters of Tennessee Production Company, Docket Nos. G-2648 and G-4227; Tennessee Gas Transmission Company, Docket No. G-4226.

Tennessee Production Company (Tennessee Production), a Delaware corporation having its principal place of business at Houston, Texas, filed, for itself and for others, an application on August 31, 1954, which was supplemented on September 10, 15, and 17, 1954, in Docket No. G-2648 for authorization pursuant to section 7 of the Natural Gas Act to sell natural gas for resale in interstate commerce as described in the application on file with the Commission, and open to public inspection.

Tennessee Gas Transmission Company (Tennessee Transmission), a Delaware corporation having its principal place of business at Houston, Texas, filed application on October 8, 1954, in Docket No. G-4226 for authorization pursuant to section 7 of the Natural Gas Act to acquire and operate the facilities of Tennessee Production Company as described in the application on file with the Commission and open to public inspection.

Concurrently with the filing of the application by Tennessee Transmission in Docket No. G–4226, Tennessee Production Company filed a companion application in Docket No. G–4227 for authorization to discontinue and abandon its natural gas sales and service subject to the jurisdiction of the Commission, pursuant to section 7 of the Natural Gas Act, as described in the application and open to public inspection.

Tennessee Production and Tennessee Transmission have requested that these proceedings be disposed of under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure.

The Commission finds:

(1) Good cause has not been shown that this proceeding is a proper one for disposition under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure.

(2) It is appropriate, reasonable, and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, to give notice of the aforesaid applications, to consolidate the above-entitled proceedings for purpose of hearing, and to hold a public hearing therein, all as hereinafter provided and ordered.

The Commission orders:

(A) Due notice be given, including publication in the FEDERAL REGISTER, of this notice of applications and order.

(B) The requests that the proceedings be disposed of under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure be and the same hereby are denied.

(C) The aforesaid proceedings on applications filed in Docket Nos. G–2648, G–4226 and G–4227 be and the same hereby are consolidated for the purpose of hearing.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 2, 1954, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issue presented by the aforesaid applications.

(E) Protests or petitions to intervene may be filed with the Commission in accordance with its rules of practice and procedure, §§ 1.8 and 1.10 (18 CFR 1.8 and 1.10), on or before November 29, 1954.

(F) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Adopted: November 15, 1954.

Issued: November 17, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 54–9224; Filed, Nov. 22, 1954; 8:45 a. m.]

[Docket Nos. G–3774, G–3896]

ARKANSAS LOUISIANA GAS CO.

NOTICE OF APPLICATIONS AND ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

Take notice that Arkansas Louisiana Gas Company (Applicant), a Delaware corporation with its principal office in Shreveport, Louisiana, filed applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for authority to construct and operate taps, laterals, and incidental facilities to serve firm natural gas to the Town of Wilton, Arkansas (Wilton) and the Town of Emerson, Arkansas (Emerson), as hereinafter described:

Community and docket No.	Date of filing	Fifth year requirements (Mcf)		Size and length of lateral (feet of 2-inch)
		Peak day	Annual	
Wilton, Ark., G–3774	Sept. 30, 1954	180	13,920	23,800
Emerson, Ark., G–3896	Oct. 1, 1954	160	11,775	11,450

Applicant also proposes to construct and operate distribution systems in Wilton and Emerson.

Applicant has requested that its applications be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure. The applications are on file with the Commission and open to public inspection.

The Commission finds:

(1) It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, that due notice of these applications, including publication in the FEDERAL REGISTER, be given as hereinafter provided.

(2) It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, that said applications be consolidated for purposes of hearing and decision.

(3) It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, that the applications filed herein on September 30, 1954, and October 1, 1954, should be set down for public hearing as hereinafter provided and ordered.

The Commission orders:

(A) Due notice of these applications be given, including publication in the FEDERAL REGISTER, of this notice of applications and order.

(B) The above-entitled applications be and the same hereby are consolidated for the purpose of hearing and decision.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on December 2, 1954, at 9:45 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the applications: *Provided, however,* That the Commission may, after a noncontested hearing, forthwith dispose of the proceedings pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(D) Protests or petitions to intervene may be filed with the Commission in accordance with its rules of practice and procedure, §§ 1.8 or 1.10 (18 CFR 1.8 or 1.10), on or before November 30, 1954.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Adopted: November 15, 1954.

Issued: November 17, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 54–9224; Filed, Nov. 22, 1954; 8:45 a. m.]

[Docket Nos. G–2405, G–2406, G–2753, G–2788, G–2789, G–2794, G–2795, G–2812, G–2817, G–2830, G–2935, G–3163, G–3606, G–3607, G–3631, G–3637, G–3787, G–3964—G–3966, G–4311]

TEXAS GAS PIPE LINE CORP. ET AL.

ORDER DENYING REQUESTS FOR SHORTENED PROCEDURE AND TEMPORARY CERTIFICATES, AND FURTHER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

In the matters of Texas Gas Pipe Line Corporation, Docket No. G–2405; Transcontinental Gas Pipe Line Corporation, Docket No. G–2406; Lloyd H. Smith, Inc., Docket No. G–2753; Stanolind Oil and Gas Company, Docket No. G–2788; Stanolind Oil and Gas Company, Docket No. G–2789; F. A. Callery, Inc., Docket No. G–2794; F. A. Callery, Inc., Docket No. G–2795; Fidelity Oil and Royalty Company, and Mound Company, Docket No. G–2812; Jas. F. Morse & Co., Docket No. G–2817; Texas Gulf Producing Company, Docket No. G–2830; Texas Gas Corporation, Docket No. G–2935; John W. Mecom, Docket No. G–3163; McCarthy Oil & Gas Corporation, Docket No. G–3606; McCarthy Oil & Gas Corporation, Docket No. G–3607; Kirby Petroleum Company, Docket No. G–3631; Union Sulphur and Oil Corporation, Docket No. G–3637; H. R. Smith, et al., Docket No. G–3787; Phillips Petroleum Company, Docket No. G–3964; Sun Oil Company (Gulf Coast Division), Docket No. G–3965; Sun Oil Company (Gulf Coast Division), Docket No. G–3966; Shell Oil Company, Docket No. G–4311.

Applications have been filed with the Federal Power Commission in the above-entitled matters by independent producers, as hereinafter specified, for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas to the Texas Gas Corporation and/or the Texas Gas Pipe Line Corporation.

Docket No.	Applicant	Address	Date filed	Location of field
G-2753	Lloyd H. Smith, Inc., a Texas corporation.	Houston, Tex.	Sept. 14, 1954	North Port Neches, Orange County, Tex.
G-2788	Stanolind Oil and Gas Co., a Delaware corporation.	Tulsa, Okla.	Sept. 16, 1954	Northwest Flank Spindletop Field area, Jefferson County, Tex.
G-2789	do	do	do	Big Hill Field, Jefferson County, Tex.
G-2794	F. A. Callery, Inc., a Delaware corporation.	Houston, Tex.	do	West Big Hill Field, Jefferson County, Tex.
G-2795	do	do	do	West Big Hill Field, Jefferson County, Tex.
G-2812	Fidelity Oil & Royalty Co., a Delaware corporation and Mound Co., a Texas corporation.	do	Sept. 17, 1954	Big Hill Field, Jefferson County, Tex.
G-2817	Jas. F. Morse & Co.	Boston, Mass.	do	Oyster Bayou Field, Chambers County, Tex.
G-2830	Texas Gulf Producing Co., a Delaware corporation.	Houston, Tex.	Sept. 20, 1954	North Port Neches Field, Orange County, Tex.
G-3163	John W. Mecom	do	Sept. 27, 1954	N. Lovell's Lake Field, Jefferson County, Tex.
G-3606	McCarthy Oil & Gas Corp., a Delaware corporation.	do	Sept. 29, 1954	Big Hill Field, Jefferson County, Tex.
G-3607	do	do	do	South Mayes Field, Chambers County, Tex.
G-3631	Kirby Petroleum Co., a Texas corporation.	do	do	North Port Neches Field, Orange County, Tex.
G-3637	Union Sulphur & Oil Corp., a Delaware corporation.	do	do	Hillebrahdt's Bayou Field, Jefferson County, Tex.
G-3787	H. R. Smith, Fred Greenberg, L. L. Williams, N. D. Williams, J. A. Sartain, B. D. Orgain and Homer E. Henderson.	Alice, Tex.	Sept. 30, 1954	Fig Ridge Field, Chambers County, Tex.
G-3964	Phillips Petroleum Co., a Delaware corporation.	Bartlesville, Okla.	Oct. 18, 1954	Robinson Lake Field, Chambers County, Tex.
G-3965	Sun Oil Co., a New Jersey corporation.	Philadelphia, Pa.	do	Caplen Field, Galveston County, Tex.
G-3966	do	do	do	Nome Field, Jefferson County, Tex.
G-4311	Shell Oil Co., a Delaware corporation.	New York, N. Y.	Oct. 28, 1954	Do.

By order issued June 23, 1954, the proceedings at Docket Nos. G-2405 and G-2406 were consolidated for the purpose of hearing.

Due notice, including publication in the FEDERAL REGISTER on November 11, 1954 (19 F. R. 7324-7325), has been given with respect to the filing of applications at Docket Nos. G-2753, G-2788, G-2789, G-2794, G-2795, G-2812, G-2817, G-2830, G-2935, G-3163, G-3606, G-3607, G-3631, G-3637, G-3787, G-3964, G-3965, G-3966, and G-4311.

In addition to the applications above referred to, the Texas Gas Corporation, a Texas corporation having its principal place of business at Houston, Texas, filed, on September 21, 1954, its application at Docket No. G-2935 for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, to transport natural gas, pursuant to an agreement between Texas Gas Corporation and the Texas Gas Pipe Line Corporation, dated April 7, 1954, as amended June 28, 1954.

The above-named applicants, at Docket Nos. G-2794, G-2795, G-2812, G-2817, G-2830, G-2935, G-3163, G-3606, G-3607, G-3965, G-3966, and G-4311 have requested that their applications be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)). Such applications are on file with the Commission and open to public inspection.

Also request for temporary certificates of public convenience and necessity have been requested in the following designated matters: G-2753, G-2812,[1] G-2817, G-2935, G-3606, G-3607 and G-4311.

[1] Request for temporary certificate of public convenience and necessity by the Fidelity Oil and Royalty Company, at Docket No. G-2812, denied September 29, 1954.

The reopened proceedings at Docket Nos. G-2405 and G-2406, which reconvened on November 15, 1954, after having previously been adjourned, was further adjourned on request of counsel by the Presiding Examiner to November 29, 1954.

The Commission finds:

(1) Good cause has not been shown for granting the requests of the above-named applicants that their applications be heard under the shortened procedure, as provided by the Commission's rules of practice and procedure.

(2) The foregoing applications, above-referred to, for temporary certificates of public convenience and necessity do not set forth circumstances within the purview of section 7 (c) of the Natural Gas Act which would warrant the issuance of such temporary authorization, and said requests should be denied.

(3) It is reasonable and appropriate in the public interest, in carrying out the provisions of the Natural Gas Act, and good cause exists to further consolidate the proceedings in the above-designated matters and hold a public hearing as hereinafter ordered.

(4) It is reasonable and in the public interest, and good cause exists for fixing the date of hearing in this consolidated proceeding less than 15 days after publication of this order in the FEDERAL REGISTER.

The Commission orders:

(A) The requests of the Applicants above-designated that their applications be heard under the shortened procedure, as provided by the Commission's rules of practice and procedure, be and the same are hereby denied.

(B) The foregoing applications filed for temporary certificates of public convenience and necessity be and the same are hereby denied.

(C) The aforesaid proceedings in the above-designated dockets be and the same are hereby consolidated for the purpose of hearing.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a public hearing be held in the above-consolidated matters, commencing on November 29, 1954, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by the applications herein.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Adopted: November 15, 1954.

Issued: November 17, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 54-9230; Filed, Nov. 22, 1954; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NORTH CAROLINA, OKLAHOMA, AND TEXAS; DISASTER ASSISTANCE

DELINEATION AND CERTIFICATION OF COUNTIES CONTAINED IN DROUGHT AREAS

Pursuant to Public Law 875, 81st Congress (42 U. S. C. 1855 et seq.), the President determined on the dates indicated that a major disaster occasioned by drought existed in the following States:

North Carolina	September 23, 1954.
Oklahoma	August 2, 1954.
Texas	July 21, 1954.

Pursuant to the authority delegated to me by the Administrator, Federal Civil Defense Administration (18 F. R. 4609; 19 F. R. 2148; 19 F. R. 5364) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, and section 301 of Public Law 480, 83d Congress, certain counties in the State of North Carolina were on September 23, 1954 (19 F. R. 6417) as amended (19 F. R. 6557; 19 F. R. 6836); certain counties in the State of Oklahoma were on August 10, 1954 (19 F. R. 5155), as amended (19 F. R. 5956; 19 F. R. 6127); and certain counties in the State of Texas were on August 10, 1954 (19 F. R. 5155) as amended (19 F. R. 5388; 19 F. R. 5957; 19 F. R. 6127; 19 F. R. 6417; 19 F. R. 6557) determined to be the areas affected by the major disaster by drought.

Pursuant to the aforesaid delegations the Delineations and Certifications of Counties in Drought Areas, as above described, are herewith amended by adding the counties set forth below, on the dates

indicated, to the major disaster areas in the designated States:

NORTH CAROLINA

OCTOBER 29, 1954

Alamance.	Montgomery.
Davie.	Orange.
Durham.	Rowan.
Franklin.	Warren.
Granville.	

OKLAHOMA

OCTOBER 29, 1954

Canadian.	Kay.
Cotton.	Texas.

TEXAS

OCTOBER 29, 1954

Clay.	Live Oak.
Coke.	McMullen.
DeWitt.	Motley.
Garza.	Nolan.
Guadalupe.	Shackelford.
Hardeman.	Sterling.
Haskell.	Sutton.
Irion.	Tom Green.
Karnes.	

TEXAS

NOVEMBER 9, 1954

Archer.	King.
Baylor.	Knox.
Borden.	Lipscomb.
Collingsworth.	Mitchell.
Cottle.	Ochiltree.
Crane.	Pecos.
Crosby.	Reagan.
Dallam.	Roberts.
Foard.	Schleicher.
Glasscock.	Scurry.
Gray.	Throckmorton.
Hall.	Upton.
Hansford.	Ward.
Hartley.	Winkler.
Hemphill.	Young.
Hutchinson.	

Done at Washington, D. C., this 17th day of November 1954.

[SEAL] EARL L. BUTZ,
Acting Secretary.

[F. R. Doc. 54-9228; Filed, Nov. 22, 1954; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 29932]

SUPERPHOSPHATE FROM IOWA AND NEBRASKA TO WICHITA, KANS.

APPLICATION FOR RELIEF

NOVEMBER 18, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Superphosphate (acid phosphate), other than ammoniated, in bulk, carloads.

From: Mason City and Perry, Iowa, Omaha and South Omaha, Nebr.

To: Wichita, Kans.

Grounds for relief: Competition with rail carriers, and circuitous routes.

Schedules filed containing proposed rates: W. J. Prueter, Agent, I. C. C. No. A-4057, supp. 4.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-9231; Filed, Nov. 22, 1954; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Change List 88]

CANADIAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES AND CORRECTIONS IN ASSIGNMENTS

OCTOBER 22, 1954.

Notification under the provisions of part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Canadian Broadcast Stations modifying appendix containing assignments of Canadian broadcast stations (Mimeograph 47214-3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering meeting, January 30, 1941.

Call letters	Location	Power (kw.)	Antenna	Schedule	Class	Probable date to commence operation
CKYL	Peace River, Alberta	*630 kilocycles* *1*	DA-N	U	III	Assignment of call letters (correction of error on list No. 87).
CJAD	Montreal, Province of Quebec	*800 kilocycles* 10	DA-1	U	II	Now in operation.
CHED	Edmonton, Alberta	*1080 kilocycles* 1	*DA-N*	U	II	Correction from DA-1 on list No. 82.
CBI	Sydney, Nova Scotia	*1140 kilocycles* 5	*DA-1*	U	II	Modification of antenna array since notified on Change List No. 72 E. I. O. Sept. 1, 1955.
CKBL	Matane, Province of Quebec	*1250 kilocycles* 5	DA-1	U	III	Now in operation.
CHVC	Niagara Falls, Ontario	*1600 kilocycles* 5	DA-N	U	III	Now in operation.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 54-9222; Filed, Nov. 22, 1954; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3299]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION WITH RESPECT TO FEES AND EXPENSES FOR LEGAL AND ACCOUNTING SERVICES

NOVEMBER 17, 1954.

The Commission on October 18, 1954 having issued its order herein pursuant to sections 6, 7, 10 and 12 of the Public Utility Holding Company Act of 1935 and Rules U-43, U-46 and U-50 thereunder, authorizing the following transactions: (1) Issuance and sale at competitive bidding of $3,000,000 principal amount of First Mortgage Bonds by Wisconsin Michigan Power Company ("Wisconsin Michigan"), a public utility company; (2) issuance and sale of 50,000 shares of common stock for a consideration of $1,000,000 by Wisconsin Michigan to its parent Wisconsin Electric Power Company ("Wisconsin Electric"), a registered holding company; (3) issuance of 75,000 shares of common stock by Wisconsin Michigan to Wisconsin Electric as a stock dividend; and

The Commission in said order having reserved jurisdiction over the legal and accounting fees and expenses to be paid in connection with said transactions, including the fees and expenses of counsel for the underwriters; and

Wisconsin Michigan having caused to be filed supplemental data with respect to such fees and expenses which are proposed to be paid as follows: Sullivan & Cromwell, company counsel, a fee of $8,000 and expenses of $375 and Price Waterhouse & Co., accountants, a fee of $3,800 and expenses of $180.20. Cahill, Gordon, Reindel & Ohl, counsel for the underwriters, are to be paid a fee of $4,500 and expenses not in excess of $200.00 by the successful bidders for the mortgage bonds of Wisconsin Michigan; and

The Commission having examined the evidence submitted with respect to the aforesaid fees and expenses and finding that the amounts proposed to be paid are not unreasonable and that it is appropriate in the public interest to release the jurisdiction heretofore reserved:

It is ordered, That the jurisdiction heretofore reserved with respect to the payment of the aforesaid fees and expenses be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 54-9251; Filed, Nov. 22, 1954; 8:49 a. m.]

[File No. 1-1190]

PATCHOGUE-PLYMOUTH MILLS CORP.

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION AND OF OPPORTUNITY FOR HEARING

NOVEMBER 16, 1954.

The American Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 promulgated thereunder, has made application to strike from listing and registration the Common Stock, No Par Value, of Patchogue-Plymouth Mills Corporation.

The reasons alleged in the application for striking this security from listing and registration include the following: As of August 31, 1954, some 26,889 of the 29,180 outstanding shares had been acquired by Pilot International Corporation pursuant to an offer of $55 per share which expired July 21, 1954, and 310 shares were owned by two officers of the issuer. The remaining 1,981 shares were owned by 78 stockholders of record. There has been no trading in said stock on the Exchange for several months and public holdings have become so reduced as to make inadvisable further dealings upon the Exchange.

Upon receipt of a request, prior to December 3, 1954, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-9247; Filed, Nov. 22, 1954; 8:49 a. m.]

[File No. 70-3312]

STANDARD POWER AND LIGHT CORP.

NOTICE OF FILING OF APPLICATION-DECLARATION REGARDING PROPOSED ACQUISITION BY PARENT OF SECURITIES TO BE DISTRIBUTED BY SUB-HOLDING COMPANY UNDERGOING LIQUIDATION AND PROPOSED CASH DISTRIBUTION BY PARENT OUT OF EARNED AND CAPITAL SURPLUS

NOVEMBER 17, 1954.

Notice is hereby given that an application-declaration has been filed with this Commission by Standard Power and Light Corporation ("Power"), a registered holding company, under sections 10 and 12 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-46 promulgated thereunder in respect of certain proposed transactions which are summarized as follows:

Power owns 1,160,000 shares of the common stock of Standard Gas and Electric Company ("Standard"), a registered holding company, which in turn owns all of the outstanding common stock of Philadelphia Company ("Philadelphia"), also a registered holding company. Power, Standard and Philadelphia have been ordered by this Commission to liquidate and dissolve. (See Holding Company Act Release Nos. 3607, 8242, 8773 and 10717.) There are pending before the Commission plans filed by Standard, pursuant to section 11 (e) of the act, to effectuate compliance with the required liquidation of Standard and Philadelphia. (See File Nos. 54-191 and 54-173.)

On October 8, 1954, Standard filed amendments to said plans which provide, among other things, for the distribution by Philadelphia to Standard of 224,467 shares of common stock of Duquesne Light Company ("Duquesne"), a public-utility subsidiary of Philadelphia, and the distribution by Standard to its common stockholders, in partial liquidation, of 216,260.7 shares of Duquesne common stock on the basis of one-tenth (1/10th) share of Duquesne stock for each share of Standard stock. (See Holding Company Act Release No. 12703.)

The application-declaration filed by Power herein requests approval of the acquisition by it of its distributive share (116,000 shares) of the Duquesne common stock to be distributed by Standard.

Power also proposes to make a cash distribution of 40 cents per share, in part out of earned surplus to the full extent thereof and the balance out of capital surplus, to each holder of record of its outstanding 1,320,000 shares of common stock and 110,000 shares of common stock, Series B, on a record date to be fixed by the company. In 1953 and 1954 Power made cash distributions out of capital surplus of 25 cents and 30 cents per share. (See Holding Company Act Release Nos. 12208, 12338, 12555, and 12638.) In connection with such distributions, the Commission reserved jurisdiction to determine and pass upon the extent, if any, to which Power may be liable to H. M. Byllesby and Company ("Byllesby"), a former stockholder, by reason of the payment of such dividends. Such rights as Byllesby may have arise under an agreement dated June 28, 1940, pursuant to which Byllesby surrendered to Power for cancellation 330,000 shares of the latter's common stock, Series B, reserving the right to receive its proportionate share of the assets of Power upon any distribution thereof whether upon dissolution, merger, consolidation, or otherwise, on a parity basis with the holders of the common stock and the common stock, Series B, of Power. (See 7 S. E. C. 596.) Byllesby's rights under said agreement are the subject of a proceeding in which the Commission approved a plan filed by Power under section 11 (e) of the act embodying a settlement agreement between Byllesby and Power. The plan would fix Byllesby's rights with respect to the distribution now proposed by Power but consummation of such plan is conditioned upon its approval by an appropriate court. (See Holding Company Act Release No. 12695.) At the request of Power, the Commission has applied to the United States District Court for the District of Delaware to enforce the terms and provisions of the plan. Power requests the Commission, if it approves the proposed 40 cents per share distribution, to reserve jurisdiction to determine the extent, if any, of Power's liability to Byllesby by reason of such proposed distribution in the event the plan and settlement of Byllesby's rights are not approved by the Court.

At September 30, 1954 Power's only obligations senior to its common stock were a bank loan in the amount of $1,500,000 which matures on July 29, 1955, current liabilities of $34,500 and a reserve for legal and other fees and expenses of $142,598. It had earned surplus of $201,527 and a capital surplus of $130,741,163. Its investment in portfolio securities stated on its books at $133,844,638 had a market value of $30,491,121. Power represents that the proposed distribution will not adversely affect the aforesaid bank loan or impair or prejudice such rights as Byllesby may have if the aforesaid settlement agreement and plan are not approved by the Court.

The application-declaration states that no commission other than this Commission has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions, exclusive of counsel fees, are estimated not to exceed $500. Counsel fees will not be separately billed but will be included in counsel's retainers or in any fee application to the Commission in connection with services rendered under section 11 of the act.

Notice is further given that any interested person may, not later than December 2, 1954, at 5:30 p. m., request the Commission in writing that a hearing be held on such matters stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-9252; Filed, Nov. 22, 1954; 8:50 a. m.]

[File Nos. 811-127, 811-130]

INDEPENDENCE FUND TRUST CERTIFICATES ET AL.

NOTICE OF FILING OF APPLICATIONS FOR ORDERS TERMINATING REGISTRATION AS INVESTMENT COMPANY

NOVEMBER 17, 1954.

In the matter of Independence Fund Trust Certificates, National Securities & Research Corporation, File No. 811-127; First Mutual Trust Fund, National Securities & Research Corporation, File No. 811-130.

Notice is hereby given that National Securities & Research Corporation ("National Securities"), sponsor and underwriter of Independence Fund Trust Certificates ("Independence"), a registered unit investment company, and of First Mutual Trust Fund ("First Mutual"), a registered open-end investment company, has filed separate applications, with amendments thereto, seeking entry of an order, pursuant to section 8 (f) of the act, declaring that Independence and First Mutual, respectively, have ceased to be investment companies.

Independence was organized pursuant to trust agreement dated as of July 1, 1931, between National Securities, the Empire Trust Company, successor trustee, and the holders of certificates issued by Independence. Certificates of Independence have not been publicly offered since December 1937. Payments on all of the outstanding certificates of Independence were invested in shares of First Mutual Trust Fund.

Shares of First Mutual were issued under a trust agreement dated as of March 1, 1937, between National Securities, Empire Trust Company, Trustee, and the holders from time to time of shares of First Mutual. Shares of First Mutual have LOT been publicly offered since June 30, 1952.

On September 19, 1952, this Commission entered its order (Investment Company Act Release No. 1794) permitting National Securities Series, an open-end diversified management company, sponsored by National Securities, to offer to the holders of certificates of Independence and the holders of shares of First Mutual, the right to purchase, at no sales load, such number of shares of National Securities Series—Balanced Series, as could be purchased from the proceeds of liquidation of their holdings in Independence and First Mutual, respectively.

According to the applications all certificates or shares of Independence and First Mutual have been liquidated and the proceeds either utilized for the purchase of shares of National Securities Series—Balanced Series or, with the exception noted below, paid to such holders in cash.

The amended applications state that all certificates or shares have been liquidated, as shown above; that neither Independence or First Mutual have any assets or liabilities; that pursuant to the deeds of trust under which these companies were organized, disposition of all assets and filing of necessary tax returns effects termination of the trust; that the expenses incurred in the termination of the trusts were nominal and paid by National Securities; and that there is on deposit in the custodian account of Empire Trust Co. the amounts of $2,260 and $2,235 held for the sole benefit of two holders of unsurrendered certificates of Independence and three holders of shares of First Mutual, respectively.

Section 8 (f) of the act provides, in relevant part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 3, 1954, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-9250; Filed, Nov. 22, 1954; 8:49 a. m.]

[File No. 70-3302]

EASTERN UTILITIES ASSOCIATES

NOTICE OF FILING REGARDING SALE OF BONDS AT COMPETITIVE BIDDING

NOVEMBER 17, 1954.

Notice is hereby given that a declaration and an amendment thereto have been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 (the "act"), by Eastern Utilities Associates ("EUA"), a registered holding company. EUA has designated sections 7 and 12 of the Act and Rules U-42 (b) (2) and U-50 thereunder as applicable to the proposed transactions, which are summarized as follows:

EUA proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, $7,250,000 principal amount of Collateral Trust Bonds, __ Percent Series due 1979. The proposed bonds will be secured by an Indenture and Deed of Trust, dated October 1, 1953, as supplemented by a First Supplemental Indenture, dated as of December 1, 1954. Under said Indenture EUA has pledged all of the voting stock it now holds of its public-utility subsidiaries, Blackstone Valley Gas and Electric Company ("Blackstone"), Brockton Edison Company ("Brockton"), and Fall River Electric Light Company ("Fall River") and all such stock hereafter acquired will likewise be pledged. The interest rate applicable to the proposed bonds (which is to be a multiple of ⅛ of 1 percent) and the price to be paid EUA (which is to be not less than 100 percent or more than 102.75 percent of the principal amount) are to be fixed at competitive bidding.

EUA presently has outstanding $6,930,000 principal amount of 4⅜ percent bonds due 1978. It is stated that the proceeds to be derived from the proposed bonds will be used to redeem and retire the bonds of the 1978 series and for the purpose of paying call premium at 4¼ percent on such bonds and one month's interest aggregating approximately $320,000.

EUA has agreed that so long as any of the proposed bonds remain outstanding, if at the end of any calendar year the consolidated equity ratio of EUA and its subsidiaries applicable to its common shares is less than 30 percent of total consolidated capitalization, or if at the end of any calendar year the consolidated funded debt ratio is in excess of 60 percent of such total capitalization, EUA will initiate, within 90 days after the year-end figures have been determined, appropriate proceedings, to be approved by this Commission, designed to bring such equity ratio above 30 percent or such debt ratio below 60 percent as the case may be. EUA reserves the right to request the Commission for modification of such agreement if future circumstances make such action desirable.

The fees and expenses in connection with the issue and sale of the proposed bonds are estimated as follows:

Securities and Exchange Commission filing fee	$750
Federal original issue taxes	7,975
Legal fee and disbursements of Gaston, Snow, Rice & Boyd, counsel for EUA	6,750
Legal fee and disbursements of Bingham, Dana & Gould, counsel for the indenture trustee	1,500
Legal fee and disbursements of Edwards & Angell, counsel for Blackstone	500
Legal fee and disbursements of Corcoran, Foley & Flynn, counsel for Blackstone	250
Legal fee arid disbursements of Keith, Reed & Wheatley, counsel for Brockton	500
Legal fee and disbursements of Richard K. Hawes, Esquire, counsel for Fall River	500
Costs and fees for qualifying under "Blue Sky Laws"	1,500
Printing and engraving	15,000
Fee of indenture trustee	5,000
Accountants' fees and expenses of Patterson, Teele & Dennis	1,000
Miscellaneous expenses	2,775

It is stated that no State or Federal commission other than this Commission has jurisdiction over the proposed issue and sale of said bonds.

EUA requests that the Commission's order herein become effective upon the issuance thereof.

Notice is further given that any interested person may, not later than November 29, 1954, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason or

reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the declaration, as filed or as further amended, may be permitted to become effective.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-9249; Filed, Nov. 22, 1954; 8:49 a. m.]

[File No. 811-328]

CAPITAL ADMINISTRATION CO., LTD.

NOTICE OF FILING OF APPLICATION FOR ORDER DECLARING THAT COMPANY HAS CEASED TO BE INVESTMENT COMPANY

NOVEMBER 17, 1954.

Notice is hereby given that Tri-Continental Corporation ("Tri-Continental"), a registered closed-end, diversified investment company under the Investment Company Act of 1940, the surviving corporation in the merger between Tri-Continental and Capital Administration Company, Ltd. ("Capital Administration"), also a registered closed-end, diversified investment company, has filed an application pursuant to section 8 (f) of the act for an order of the Commission declaring that Capital Administration has ceased to be an investment company.

The application states that the Articles of Merger, dated as of April 8, 1953, between Tri-Continental and Capital Administration, providing for the merger of Capital Administration into Tri-Continental, became effective on that date and thereupon, the separate existence and corporate organization of Capital Administration, except insofar as continued by statute, ceased. By an Opinion and Order dated March 6, 1953 (Investment Company Act Release 1845) this Commission granted an exemption from sections 17 (a) (1) and (2) of the act with respect to said merger.

Section 8 (f) of the act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 7, 1954, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 54-9248; Filed, Nov. 22, 1954; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

JEAN JOSEPH MARTIN LAMBERT MARCHAND

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Jean Joseph Martin Lambert Marchand, The Hague, Netherlands, Claims Nos. 41840 and 41860; property described in Vesting Order No. 671 (8 F. R. 5004, April 17, 1943) relating to United States Letters Patent No. 2,124,858; and property described in Vesting Order No. 1187 (8 F. R. 7036, May 27, 1943) relating to United States Patent Application Serial Nos. 469,105 (now United States Letters Patent No. 2,443,470) 469,106 (now United States Letters Patent No. 2,416,398) and Serial No. 684,277 being a division of original Patent Application Serial No. 469,106.

Executed at Washington, D. C., on November 16, 1954.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 54-9237; Filed, Nov. 22, 1954; 8:48 a. m.]

ABRAHAM MOSHE (MAURICE) KRIEGLER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Abraham Moshe (Maurice) Kriegler, Jerusalem, Israel, Claim No. 60891, Vesting Order Nos. 4236 and 5664; $448.15 in the Treasury of the United States.

Executed at Washington, D. C., on November 17, 1954.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 54-9238; Filed, Nov. 22, 1954; 8:48 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 39]

HARDWOOD PLYWOOD

NOTICE OF HEARING

The United States Tariff Commission announces a public hearing, to begin at 10 a. m., e. s. t., on March 22, 1955, in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D. C., in connection with Investigation No. 39 under section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted September 16, 1954, with respect to hardwood plywood, described in the public notice of this investigation previously given (19 F. R. 6091).

Request to appear at hearings. Parties interested will be given opportunity to be present, to produce evidence, and to be heard at the above-mentioned hearing. Such parties desiring to appear at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date of hearing.

I certify that the above hearing was ordered by the Tariff Commission on the 17th day of November 1954.

Issued: November 18, 1954.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 54-9239; Filed, Nov. 22, 1954; 8:48 a. m.]